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NATURAL PRINCIPLES

OF

RECTITUDE.

NATURAL PRINCIPLES
OF
RECTITUDE,
FOR THE
CONDUCT OF MAN
IN ALL
STATES AND SITUATIONS OF LIFE;
DEMONSTRATED AND EXPLAINED
IN A
SYSTEMATIC TREATISE
ON
MORAL PHILOSOPHY.

COMPREHENDING

The Law of Nature—Ethics—Natural Juriſprudence—General Œconomy—Politics—and the Law of Nations.

By *JOHAN. DANIEL GROS*, D.D.

Miniſter of the German Reformed Church in the City of New-York, and Profeſſor of Moral Philoſophy, Geography, and Chronology in Columbia College.

Omnes Indiæ opes ſuperat mens conſcia recti.

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—1795.—

District of New-York, ss.

(L.S.) BE it remembered, that on the 27th day of August, in the nineteenth year of the independence of the United States of America, the Reverend JOHAN. DANIEL GROS, of the said district, hath deposited in this office the title of a book, the right whereof he claims as author, in the words following, to wit:

" *Natural Principles of Rectitude, for the Conduct of Man in all* " *States and Situations of Life; demonstrated and explained in a* " *Systematic Treatise on Moral Philosophy: comprehending the Law* " *of Nature—Ethics—Natural Jurisprudence—General Œconomy—* " *Politics—and the Law of Nations. By* Johan. Daniel Gros, *D. D.* " *Minister of the German Reformed Church in the City of New-York,* " *and Professor of Moral Philosophy, Geography and Chronology in* " *Columbia College.*"

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ROBERT TROUP, *Clerk of the District.*

TO THE

Regents of the Univerſity of the State of New-York,

AND

To the Truſtees of Columbia College,

This Treatiſe is humbly dedicated,

By their devoted,

And moſt obedient humble ſervant,

The AUTHOR.

PREFACE.

THERE ſhould indeed be weighty cauſes, which, in themſelves, could juſtify a pretenſion to the attention of the public, on the part of a perſon who cannot but be very imperfect, with regard to ſtile and diction, in the language of a country which has given him the title of an *adopted citizen*. New and important truths, or a new and happy arrangement of thoſe which are eſtabliſhed by the reaſonings of philoſophers and confirmed by the experience of the preſent as well as former ages, might perhaps compenſate for a defect of elegance of ſtile, ſo juſtly eſteemed by the public, and ſo eagerly ſought on the part of authors, who, treating on ſubjects intereſting to all ſtates and conditions of men, ſet up for public teachers. The author of this treatiſe dares not arrogate to himſelf merit on either of theſe points. He contents himſelf with furniſhing the Students of Columbia College, his former and preſent diſciples, with the general traits of a ſyſtem which he has taught for a number of years in that ſeminary of learning, under the auſpices and patronage of the worthy Truſtees thereof. He wiſhes to ſubmit to the

Regents

Regents of the Univerſity of the ſtate of New-York, and, in them, to the fathers of our country, to whoſe care is intruſted the greateſt object of public concern on the part of rulers of ſtates and nations, the education of youth, the cultivation and advancement of the arts and ſciences, both ſo beneficial and ornamental to civil ſociety,—the method and ſubject-matter of his labours as Teacher, and afterwards Profeſſor of Moral Philoſophy in the firſt ſeat of learning in this ſtate.

Very ſenſible of his inability to ſatisfy the great truſt repoſed in him to that degree of perfection ſo deſirable in perſons whoſe province it is to inſtil into the minds of our youth thoſe principles of morality and rectitude which give them a true and happy direction in the purſuit of all public and private virtues, and by the indefatigable exerciſe of which they may become eminently uſeful to themſelves, good members of ſociety, and ornaments to their country,—he is confident his zeal to do all in his power for the attainment of theſe important ends has not been in vain; and as he is perſuaded this will be kindly taken into conſideration, ſo he truſts it will entitle him to that liberal and generous indulgence which laudable and arduous attempts have never yet failed to meet with from the free citizens of theſe happy ſtates.—The higheſt of his ambition is, that an imputation of partiality may be removed from thoſe generous patrons, who have honoured a German preacher with an appointment to the Profeſſorſhip of Moral

Moral Philoſophy.—He has conſulted, but not in a ſervile manner followed authors of fame and great authority—he has even taken the liberty to differ from them in many points of no ſmall importance—he has endeavoured to eſtabliſh the rights in perſons on their proper foundation, the eternal principles of natural juſtice and equity—he has laboured to enter the ſanctuary of ſocial rights of every deſcription, holding up the high deſtination and dignity of man, following him through a variety of natural and adventitious ſtates—he aſſerts man's unalienable rights, under all manner of circumſtances, in the various ſituations of private and public life—he has endeavoured to prove the great advantages of civil government, together with its neceſſity for the general happineſs of mankind, pointing out the grand natural rights and important public duties of rulers on earth—he has explained and ſupported, by arguments founded in nature, the no leſs important rights of the ruled, and the abſolute neceſſity of a faithful performance of all the public obligations which they owe to their country and their magiſtrates, in order to be good citizens and a happy people.

His aim has even been ſo extenſive as to lay before the public, general, uniform and ſtable principles for guiding, in ſome meaſure, their ſentiments with reſpect to univerſal benevolence, the neceſſity of a faithful attention to duty, and the high excellency of religion and piety. Inſulated with regard to party or connections,

his whole attention has been fixed upon his ſubject, and the beſt poſſible manner to do it juſtice. Under theſe circumſtances, he thought the liberty to take up the tone of a cenſor no crime, but looked upon candour as a right, as an indiſpenſible duty in an author who has undertaken to teach the ſacred principles of morality. Following reaſon as his guide, he could not but ſee its amicable and inſeparable connection with the ſacred cauſe of religion. He thinks himſelf juſtifiable in laying down as an incontrovertible truth, that *reaſon is religion*, becauſe *religion is the greateſt perfection of reaſon, and gives it the happieſt direction.* If this be ſo, which is evident from the nature of man and from his natural relation to the Deity and to the univerſal ſociety of mankind, how ſhall we anſwer for the eagerneſs with which certain publications are cried up, and the great avidity with which they are bought—publications which ſurely are not the ſalutary effects of the *age*, but, on the contrary, the bitter and execrable fruits of the *rage* of reaſon, ſince their aim ſeems to be, were it poſſible, to ſap the very foundation of religion?

The impartial public will judge, whether theſe great objects are in ſome meaſure happily purſued—whether the well-meant labours of the author merit their attention and patronage—whether freedom of thought and impartiality of judgment have been the conſtant guide of his reſearches after truth—whether the cauſe of humanity or ſiniſter motives have been his object—and, whether

whether the happineſs of mankind has been the principal end of his labours.

Were it, that productions could gain credit from the characters who have given encouragement for their appearance before the public, the following treatiſe would not be deſtitute on this ſcore. Forbearing to mention the names of ſome very reſpectable perſons who will doubtleſs ſee this work, the author cannot poſſibly omit that of the late patriotic BARON DE STEUBEN, his great patron and friend. However, from the author's own conſciouſneſs of his inſufficiency with reſpect to diction, the thought was laid aſide; and, had it not been for the friendly importunities and preſſing arguments of one * of my worthy colleagues, the Profeſſors of Columbia College—had I not had ſufficient reaſons for depending on the aſſiduous ſupport of my worthy pupil † in the theological and philoſophical ſciences, whoſe heart and talents bid fair ſoon to give him a place among thoſe who will tranſmit the truths of ſound morality to poſterity not impaired, but improved, the publication of this treatiſe would probably have been left in the world of poſſibilities.

Happy

* Dr. Samuel L. Mitchill, Profeſſor of Chemiſtry in Columbia College.

† The Reverend Philip Milledoler, Miniſter of the Goſpel, alumnus of Columbia College, and a native of the city of New-York.

Happy would the author be, if he ſhould find that his production meets the indulgence of the public, and is not thought unworthy the approbation of the good and upright amongſt his fellow citizens; but ſtill happier, if he finds his wiſhes accompliſhed—if he can conſide, that it contributes to the advancement of the cauſe of virtue and religion—that it becomes a mean to inflame the American youth with a true love for their country, with a ſpirit of patriotiſm worthy their great rights and privileges, as the free-born ſons of the free and independent ſtates of North-America. May they know, eſteem, and always make a virtuous uſe of thoſe rights—May they be foremoſt amongſt thoſe who ſtrictly adhere to all their private and public obligations—May they become good men, good citizens; the ſupporters of the government of laws, the defenders of their country; reſpecters of religion, and true lovers of God, their benign and univerſal father!

New-York, April 10, 1795.

NOTE.

A few errors have been obſerved, but as the author has been prevented by indiſpoſition from attending to them, it is expected the reader will excuſe their not being particularly noticed.

The term *ſocial obligee* is made uſe of in a ſenſe different from the ſignification it commonly bears in law. Let it be remembered, that thereby is underſtood that party of the ſocial connection upon whom the ſocial obligation is binding.

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INTRODUCTION.

MAN may be conſidered in a *variety of ſtates*, which *modify* his moral character, and exhibit general rules for his conduct in the purſuit after happineſs.

By a *ſtate* of man, we underſtand an aſſemblage of certain determinations or affections inherent in, or referable to his nature, and to various relations in which he may ſtand with reſpect to other things.

There are ſome affections in man which flow from his eſſence, and therefore are always inherent; theſe conſtitute his *eſſential ſtate*, which is *conſtant* and *unalienable*.

Scholion.—His dependence upon God, the *rationality of his nature*, &c.

There is a variety of other determinations which exhibit human nature under certain conſiderations, relations and circumſtances; theſe, not being always inherent in man, conſtitute his *accidental ſtates*, which are *mutable*.

Sch.—That man is a citizen, a ſtranger, a magiſtrate, a father, &c.

Some of theſe determinations are *in* man, others reſult from a *relation* to other objects; the former conſtitute the *internal*, the latter the *external ſtate* of man.

Sch.—A man may be virtuous, though he be not rich; he may be admirably qualified for the ſervice of his country, and

ſtill be unnoticed, and vice verſa. The nobleſt mind may be obſcured under the garb of poverty—innocence may bear the laſh of perſecution. Vice and ſervility may for a while ride in triumph. Man, according to his internal ſtate, may be happy; in reſpect of the external, he may appear to be miſerable and wretched.

If man be conſidered under determinations which reſult from the natural conſtitution of his body and the natural frame of his mind, he is ſaid to be conſidered in his *phyſical ſtate*.

Sch.—A man may be ſtrong and vigorous, briſk and gay, or weak, ſlow, ſullen, &c.

Phyſical ſtates are in many reſpects *mutable*; for we experience, that the conſtitution of the body and the diſpoſition of the mind admit of great improvements, or, by miſmanagement and by various accidents, may be rendered worſe.

Sch.—To endeavour to know and do all that is conducive to the well-being of ſoul and body, ought to be the moſt principal concern of every man who feels a deſire to be happy. To aſſiſt our fellow men in this great work is the province both of the *phyſician* and the *moraliſt*, with this difference, that the latter refers all that he finds in and about man to his free agency.

Man, repreſented as a free agent, is conſidered in his *moral ſtate*.

The moral ſtate of man is either *natural* and *conſtant*, or *accidental* and *mutable*.

Sch.—Man, as a rational creature, is reſponſible for his conduct to him that made him, where and whenever it is in his power to exerciſe free agency, and in that reſpect he is beyond all controul of human authority: but in the exerciſe of free agency, he may follow the dictates of reaſon, acquire habits of virtue, be ſenſible of his duty; or, on the contrary, may conduct himſelf in an irrational manner, become more or leſs careleſs and abandoned.

In

In reſpect of moral agency, we muſt well diſtinguiſh the different actions of which human nature is capable, the nature of moral actions, and their conſiſtency with moral rectitude.

We *act*, if we are the cauſe of an effect, or of the contrary.

Actions, therefore, are diſtinguiſhed into *commiſſive* or *omiſſive*.

Sch.—We may do our duty or neglect it.

Whether we act by commiſſion or by omiſſion, an effect will be produced in a two-fold way; either that we determine ourſelves, or that we are determined.

When we determine ourſelves, an action is ſaid to be *ſpontaneous*; if we are determined, it is *non-ſpontaneous*.

Non-ſpontaneous actions are either *compulſory* or *natural*.

In compulſory actions we are determined by *external force*; natural actions reſult from the *conſtitution* of body and ſoul.

Sch.—Hunger, thirſt, ſleep, repreſentations cauſed by objects, &c.

Natural actions, in themſelves neceſſary, may be ſpontaneous in reſpect of time, place, and manner to do them.

Sch.—We may eat and drink, at an improper time and place, to exceſs, in a decent or indecent manner.

We *act freely*, when we act ſpontaneouſly upon previous conſideration.

We *conſider*, when, by an act of our underſtanding,

we enquire whether an action ought to be done or omitted.

Sch.—Irrational creatures act ſpontaneouſly, and often with an admirable ſagacity; but, being deſtitute of underſtanding, they cannot act freely.

An action is ſaid to be moral, when it is founded in a free action.

All free actions are moral, but not all moral actions free.

Sch.—Intoxication, freely indulged, with all its concomitants and conſequences, is criminal, horrid and diſguſtful: if it be intruded by deception, or forced upon a fellow creature by compulſion, it moves our pity and meets compaſſion.

In conſequence of our actions, things which were merely poſſible are brought into exiſtence.

If it be our deſire to enquire into the nature of moral actions, we muſt carefully attend to the ideas of poſſibility, of neceſſity and contingency, in order to have a diſtinct idea of liberty, upon which all that is moral or immoral in human conduct ultimately depends.

In general, that is ſaid to be *poſſible*, which involves no contradiction.

What involves no contradiction in itſelf, is *abſolutely poſſible*.

Sch.—The whole ſyſtem of the heavens may be removed or changed; the poor oppreſſed and injured.

What involves no contradiction under certain circumſtances, is *hypothetically poſſible*.

The circumſtances under which a thing, poſſible in itſelf, may involve a contradiction, are *our power* or *duty*;

duty; therefore, hypothetical poſſibility is diſtinguiſhed into *phyſical* and *moral*.

A thing is phyſically poſſible, if it does not involve a contradiction with our power.

Sch.—Upon the queſtion, Whether the power of man, or of the whole human race, or of all created beings taken together, can remove heavenly bodies, or change their order? we cannot heſitate to declare ſuch things utterly impoſſible.

Things are morally poſſible, if they involve no contradiction with a law, with our obligation and duty: they are ſaid to be *right*, and the oppoſite to be *wrong*.

Sch.—It is not morally poſſible and right to oppreſs and to injure the poor; on the contrary, it is morally impoſſible and wrong.

We call things *neceſſary*, when the oppoſite thereof is impoſſible.

If the oppoſite of a thing be impoſſible in itſelf, it is *abſolutely neceſſary*.

Sch.—Thus the exiſtence of God, as the firſt cauſe of all things, is neceſſary; it is alſo neceſſary that the love of ſin be an enmity againſt God.

If the oppoſite of a thing be impoſſible under circumſtances, it is *hypothetically neceſſary*.

If the oppoſite of a thing be impoſſible in reſpect of our power, it is ſaid to be *phyſically neceſſary*; as, meat and drink for the ſupport of life.

If the oppoſite of a thing be inconſiſtent with a law, with our obligation and duty, it is *morally neceſſary*.

Sch.—Of this nature are all virtuous actions. The fear of God, the love of our neighbour, modeſty, juſtice, ſobriety, are not optional in this ſenſe, that we may omit them, or do the contrary, conſiſtently with the dignity of human nature and our dependence upon God.

The

The oppoſite of neceſſity is *contingency*.

A thing, therefore, is contingent, if the oppoſite thereof be poſſible, which may be either in itſelf or under circumſtances.

Hence contingency is likewiſe diſtinguiſhed into *abſolute* and *hypothetical*, and the latter into *phyſical* and *moral*.

Sch. 1.—What is abſolutely neceſſary, cannot be contingent under any circumſtances whatever.

Sch. 2.—What is hypothetically neceſſary, may be abſolutely contingent.

Sch. 3.—What is phyſically contingent, may be morally neceſſary.

Sch. 4.—The queſtion, therefore, is, Whether actions are right or wrong? Not whether we can, but whether we ought to do, or to omit them.

If by a *right* we underſtand a *quality* in a perſon, we may define it to be a moral poſſibility of doing or omitting certain actions.

Sch.—To order the confinement of perſons is the right of magiſtrates and officers of government, excluſively of citizens of any other deſcription; it extends to diſorderly perſons, the violators, not the peaceable obſervers of the law.

As free agency ought to be conducted according to principles of right, we may infer, that the rights of men are the principal features in their moral ſtate; for different perſons enjoying the ſame rights, are in the ſame moral ſtate; and, on the contrary, perſons identically the ſame, enjoying different rights, muſt be conſidered in different moral ſtates.

Sch. 1.—Men, by their nature equal, differ among one another; the one is a father, the other a ſon, a magiſtrate, &c.

Sch. 2.—Nay, an individual perſon may be father, ſon, magiſtrate, &c.

A perſon

A perſon veſted with rights is ſtiled a *moral perſon.*

Many individuals veſted with *identical* rights, conſtitute one moral perſon; as corporations, legiſlatures, &c.

By the term *nature*, which in different ſciences is taken in various ſignifications, we, in the ſequel of this treatiſe, underſtand the eſſence of things, and call that *natural*, which flows immediately from that eſſence.

The nature of things is either conſidered in itſelf, or under circumſtances.

Things flowing from nature conſidered in itſelf, are *abſolutely natural*; thoſe which flow from nature conſidered under circumſtances, are *hypothetically natural.*

Sch. 1.—It is the natural abſolute right of man not to be ſubject to human controul againſt his will, or independent of an act that is founded therein; likewiſe, to have his ſupport from the produce of the earth—to enjoy the fruit of his own labour: *ſlavery*, therefore, is a ſtate abſolutely unnatural.

Sch. 2.—But under the hypotheſis, that we have made choice of laws and men, or committed injury and damage, it is naturally right that we be controuled by thoſe laws and men, or make reparation by our labour and property: ſubjection, ſervitude and compulſion are therefore hypothetically natural.

What is abſolutely natural, is *neceſſary*; what is hypothetically ſuch, is *contingent.*

Sch. 1.—Things of a phyſical nature, which are naturally neceſſary, *cannot*, and thoſe of a moral nature *ought not* to be otherwiſe. Twice two neceſſarily make four. What is right to one man, is neceſſarily right to another who is in the ſame ſtate and condition.

Sch. 2.—But ſuppoſe a continued addition of two, the ſum naturally will increaſe to ſix, eight, &c. As naturally merit or demerit muſt make a difference between the characters of perſons, in other reſpects of the ſame ſtate and

and condition. The one has a juſt claim to our approbation, the other deſerves diſapprobation and cenſure.

Rights of man may be diſtinguiſhed in reſpect of the *ſources* from which they flow: thoſe which flow from his nature, are his *natural rights*; thoſe which flow from other things, are *adventitious*.

The natural rights of man are *abſolute* or *hypothetical*.

All men, having the *ſame* nature, have the ſame abſolute natural rights; and, when they are in the ſame circumſtances, their hypothetical natural rights cannot differ.

Sch.—All men have the ſame abſolute natural right to have their ſubſiſtence from the produce of the earth: but as it is impoſſible that all occupy the ſame ſpot, and ſubſiſtence cannot be had if one ſhould deſtroy the work of another, it is natural that each be entitled to make uſe of the ſoil firſt occupied, and having beſtowed his labour upon it, excluſively to enjoy the fruits thereof.

Men, therefore, are in the ſame natural ſtate; for they are veſted with the ſame natural rights.

Rights the ſame, are *equal*.

Men naturally, therefore, are in a *ſtate of equality*.

Men, in a ſtate of equality, are alſo ſaid to be in a *ſtate of natural liberty*.

If man, in his abſolute natural ſtate, be conſidered in himſelf, he is repreſented in a ſtate of *ſolitude*; if reſpect is had to other men or creatures, he is conſidered in the *abſolute ſocial ſtate*.

Sch. 1.—In this ſtate, independent of his will, man is brought into life a fellow creature of the whole human race, a member of the univerſal family of the eternal father of beings.

Sch.

Sch. 2.—In treatiſes of morality little is ſaid of this abſolute ſocial ſtate, though it ought to be deemed a ſubject of the greateſt importance and of unlimited extent: for what can more become the dignity of human nature, than that men, ſtates, and nations ſpread over the face of the earth, ſhould conſider themſelves and one another as children of the ſame gracious father, being not only the work of his hand, but alſo the objects of his benign love and continual care?

Sch. 3.—How far will this ſubject extend, if it be conſidered that even brutes and other things have an abſolute ſocial claim upon the human race?

Beſides this *neceſſary ſociety*, of which man cannot, and of the duties of which he ought not diveſt himſelf, there is a variety of others, where perſons voluntarily unite for obtaining a *common* end.

Man, thus united with others, is in a *ſocial ſtate*—acquires adventitious ſocial rights, and comes under ſocial obligations.

Societies are as *various* as there may be ends for which perſons unite.

If an union be formed for propagating the ſpecies, perſons live in the *connubial* or *matrimonial ſtate*.

Sch. 1.—If that union is, as it ought to be, for the end of educating children, the matrimonial ſtate is *lawful*, and becomes *parental*.

Sch. 2.—In this ſtate, parents, guardians, &c. are veſted with parental rights; children and wards, &c. are bound by filial duties.

For the maintenance and education of children, *ſervices* are required; perſons uniting for that purpoſe, are in the *herile ſtate*, where maſters and ſervants have their reſpective rights, and come under reciprocal obligations.

The connubial, parental and herile ſtates, taken together, or any two of them, conſtitute the *domeſtic ſtate*.

From theſe ſocieties, which are ſtiled the *leſs*, may be conceived an union of families aſſociating for *mutual* convenience and ſecurity. This is a ſtep to the greater ſocieties, and may be called a *community*.

If a community increaſes to a conſiderable extent, the common concerns cannot well be managed by the perſonal deliberation of all the heads of families. Convenience, nay, neceſſity will of courſe dictate a delegation of will and power of the members to a certain perſon, or number of perſons, for directing things to the common good of all.

That ſociety, the members of which have tranſferred their will and power to a moral perſon for the attainment of the felicity of all, is called *civil*.

Sch.—Civil ſocieties, in reſpect to one another, are ſtiled *ſtates*.

Having given an idea of the moſt principal ſtates in which man may be conſidered, and by which his natural rights and duties are variouſly modified, we now proceed to the definition of moral philoſophy, and will conſider the moſt general contents of that ſcience.

MORAL PHILOSOPHY

IS that ſcience which gives rules for the direction of the will of man in his moral ſtate, or in his purſuit after happineſs.

This ſcience is generally divided into three parts:

The firſt contains the law of nature, that is, the natural and invariable principles of juſtice and equity, by which human conduct ought to be regulated.

The

The ſecond ſhows how thoſe principles are to be applied to the various ſtates of man.

The third exhibits the application of theſe natural principles to the ſtates of the nations of the earth.

The LAW of NATURE

IS that ſcience which treats of the natural and invariable principles of juſtice and equity, by which human conduct ought to be regulated.

It contains five chapters:

The firſt treats of human actions in general, and particularly their morality or immorality.

The ſecond, of moral obligation.

The third, of natural law.

The fourth, of the different degrees of morality or immorality.

The fifth, of moral imputation.

CHAPTER I.

Of the actions of man, and their morality or immorality.

MAN is a living creature, endowed with an organic body and a rational ſoul.

Sch. 1.—Living creatures, endowed with an organic body and a ſoul, are called *animals*.

Sch. 2.—Man differs from other animals principally in this, that his ſoul is *rational;* according to his animal nature, he has numberleſs determinations in common with brutes.

Soul

Soul is defined to be a power ſuſceptible and capable of repreſentations.

The different modes in which that power exerts itſelf are termed *faculties*.

The faculties of the human ſoul diſtinguiſh themſelves into the *cognoſcitive* and *appetitive*, both of which muſt be furthermore diſtinguiſhed into the *inferior* and *ſuperior*.

Sch.—The inferior we have in common with brutes; by the ſuperior we are elevated to the rank of ſpirits.

The *inferior* cognoſcitive faculty is that power of the human ſoul by which we have repreſentations of *material* objects. It comprehends ſenſation, imagination and fancy.

Senſation is that faculty by which we have repreſentations of material objects *preſent*.

Sch.—Preſent here ſignifies any object that ſtrikes our ſenſory organs; thus a fixed ſtar, and a diſtant ſound which is heard, are preſent.

Imagination is that faculty by which we have repreſentations of material objects *abſent*, but which have once been *wholly* preſent.

Sch.—We ſee a friend, and remember the city, with other circumſtances, where and under which we ſaw him.

Fancy is that faculty by which we form repreſentations of ſuch abſent material objects as have once been preſent *in part*.

Sch.—We fancy a golden mountain, having had partial ideas of gold and of mountains. Hence the fictions of centaurs, nymphs, &c.

There are *laws* of ſenſation, imagination, and of fancy, by which may be determined what is neceſſary in

in our repreſentations, and how far they may be ſpontaneous, referable to our will, ſinful or harmleſs.

Sch. 1.—The law of ſenſation: As ſoon as an object has ſtruck our ſenſory organ, the repreſentation, or ſpecies impreſſa, is neceſſary: ſenſible repreſentations are therefore in our power and imputable, as far as it was in our power to prevent objects affecting our organs.

Sch. 2.—The law of imagination and fancy: If of two or more objects formerly perceived, aſſociated with or bearing a ſimilitude the one to the other, one occurs to the mind, the other or the reſt will of neceſſity alſo recur: imaginations and phantoms, therefore, will be ſo far in our power and imputable, as it has been in our power to hinder the recurrence of ideas formerly perceived.

Sch. 3.—As far as actions of the mind flow from theſe laws, ſo far they muſt be conſtrued to be natural actions of the human ſoul.

There are alſo *natural actions* of our body, which are ſo far neceſſary and non-ſpontaneous as they flow from its mechaniſm and the natural ſtate of its fluids.

The perceptions of the mind hitherto explained, have their ultimate cauſe in ſenſation. Senſible ideas ariſe from mutations, which objects excite in the ſenſory organs. There is, therefore, the ſtricteſt *harmony* between the ſenſations of our mind and the mutations excited in our organs.

Sch. 1.—By this indiſſoluble union and harmony, ſoul and body conſtitute one *ſuppoſitum*, that is, a complete incommunicable ſubſtance.

Sch. 2.—If ſuch a ſuppoſitum is intelligent, it conſtitutes a *phyſical perſon*.

All mutations flowing from the mechaniſm of the body and the natural frame of the mind, in certain reſpects, are hypothetically natural; for in divers perſons they are different, nay, vary often in the ſame individual. This difference is moſt probably in conſequence

ſequence of their originating from different ſources, ſome ariſing in the ſoul, others reſulting from the body.

Sch. 1.—The mind is not always equally vigilant, the body may be deranged; the ſtate of childhood differs from that of manhood, that of ſickneſs from a ſtate of health.

Sch. 2.—Whatever may be the origin or the qualifying cauſes of thoſe different mutations, ſo much is certain, that they affect the whole man, and modify his phyſical ſtate, that he becomes an individual perſon, *diſtinct* from all others in conſtitution, complexion, diſpoſition, &c.

Sch. 3.—Natural mutations do not intereſt the moraliſt any farther than as they affect or are affected by ſpontaneity, inclination and will; as they co-operate or are contrary to the ultimate end and ſcope of the eſſence of man. His enquiry is, What influence things have upon human happineſs, whether they be good, bad or indifferent?

Things are *conſiſtent*, if their junction can be explained from a principle common to all.

As far as things are conſiſtent, they are *perfect*.

Sch. 1.—Every thing has its eſſence if the various things inherent therein are conſiſtent with the ſcope of that eſſence, there is a degree of perfection in it commenſurate with that conſiſtency.

Sch. 2.—A clock is ſo far perfect as the various ſprings and movements, and all parts, conſpire to point out time in a preciſe manner; for this is the ſcope of its eſſence.

Men cannot act but certain mutations will be produced; they either *conſpire* with the ſcope of their eſſence, or are *inconſiſtent* with it.

By *actions*, therefore, man will render his ſtate perfect or imperfect.

What renders our ſtate perfect is *good*, that which renders it imperfect is *bad*.

Sch.—What is not referable to our ſtate is *indifferent*.

If our mind be actuated by repreſentations of things in reference to our ſtate, we feel *inclination* or *averſion* in conformity to ſuch repreſentations.

The

The *appetitive faculty* of the human ſoul in general may be defined that faculty by which we feel an appetite for things repreſented as good, and are averſe to thoſe which are repreſented as bad.

Sch.—Appetite and averſion cauſed by ſenſation, imagination or fancy, conſtitute the inferior appetitive faculty; but if they take riſe in conſequence of acts of our underſtanding, they muſt be conſidered as exertions of the ſuperior; they are acts of the will.

Appetite and averſion follow certain *laws*; for they are indiſſolubly connected with the repreſentations of good or evil; in our power, and imputable, if the repreſentations be in our power or ſpontaneous.

Sch.—Appetites and averſions change with our repreſentations; the boy ceaſes to diſlike the ſchool if he be made to ſee the evil of idleneſs.

The repreſentations by ſenſation, imagination and fancy being for the moſt part *confuſed*, it follows, that appetite and averſion reſulting from them, may be *miſplaced* and improperly exerciſed.

Senſitive appetite and averſion have *degrees* in proportion as things are repreſented to be good or bad upon various grounds and conſiderations.

Sch.—In conſequence of this, appetite and averſion may claſh in reſpect of one and the ſame object, or the competition may lie between different objects. In each of theſe caſes the event will be, that one or the other preponderates. Or they may reſpectively coincide, and cauſe the affections of the mind to become ſtrong, turbulent and predominant.

Strong and predominant appetites or averſions are known by the name of *paſſions*.

Paſſions are therefore produced by ſtrong and lively ſenſitive repreſentations of good or evil.

Sch.

Sch.—They are diſtinguiſhed into the *agreeable* and *diſagreeable*, as they have either good or evil for their object.

All paſſions ultimately reſt upon theſe four: *pleaſure*, *deſire*, *pain*, and *fear*.

Pleaſure and deſire are the *foundation* of all agreeable paſſions; the former ariſes from a ſtrong repreſentation of a good *in our poſſeſſion*, the latter takes place when there is a great probability of obtaining a good *yet in expectation*.

Pain and fear, on the contrary, are the *ſources* of all diſagreeable paſſions; the former is cauſed by the repreſentation that we labour under the preſſure of a *preſent* evil, the latter ariſes from the thought that an evil *hangs over* our head.

Sch.—All other paſſions, diſtinguiſhed in languages by different names, are not affections different in their nature, but only degrees either of pleaſure or deſire, of pain or fear; as, joy, anxiety, deſpair, terror, mortification, &c.

An habitual indulgence of ſenſe and paſſion plunges us into *ſenſuality*, and cauſes *propenſity*.

A kind of appetite and averſion, not founded upon repreſentations of the mind, is called *inſtinct*; as, hunger, thirſt, &c.

Experience evinces, that brutes, in conformity to their ſenſitive repreſentations, alſo have their ſenſitive appetite and averſion, exerciſe indifference, are actuated by propenſities and by inſtinct. It is likewiſe evident from common obſervation, that their appetites and averſions are generally more confined and infinitely better directed than thoſe of man: their paſſions and propenſities are but of the one or the other kind, and their vehemency keeps pace with an irritating cauſe, or correſponds with the deſtiny, defence, or ſupport of their

their exiſtence. Every thing indicates that ſenſe and inſtinct are given them for their guide; every thing manifeſts infinite power, wiſdom and goodneſs in him who made them.

But it is not ſo with man; he is prone to ſenſuality; various paſſions obſcure and diſturb his mind, plunge him into error, ſin and miſery: ſenſe, paſſions, inſtinct, therefore, cannot have been deſigned by the wiſe Creator to be the directors of the ways of man.

What great cauſe is there to bleſs God that he has given him another, a better guide; that he hath clothed human nature with a dignity ſuperior to all creatures here on earth; that he has created his ſoul a ſpirit? Man is not to follow ſenſe, but as it is directed by underſtanding and reaſon; theſe are to direct the ſteps of his feet, the deſires of his heart—not to obey but to regulate ſenſe and paſſion.

This leads us to treat of the ſuperior faculties of the human ſoul. Theſe, as has been ſaid, are diſtinguiſhed into the cognoſcitive and appetitive.

By the *ſuperior cognoſcitive* faculty we are enabled to form repreſentations of *immaterial* objects.

Sch. 1.—In order to have an idea of immaterial objects, we may only think of the *ſimilitudes* and *differences* which we perceive when we conſider ſeveral objects with any degree of attention.

Sch. 2.—Theſe ſimilitudes and differences are not in one or the other of thoſe objects, but ſomething between them, therefore ſomething immaterial.

The ſuperior cognoſcitive faculty more particularly comprehends attention, reflection, underſtanding, reaſon, and judgment.

Sch.—The terms, *underſtanding* and *reaſon* are often uſed the one for the other, each expreſſing in general the ſuperior cognoſcitive faculty.

We have not only a faculty to think, but it is in our power to dwell upon a thought or to diſmiſs it. The faculty of continuing our thoughts we call *attention.*

We may attend to thoughts, view them as it were on different ſides, enter into their ingredient parts; that is, we may continue our attention. The faculty of continuing attention is *reflection.*

By attending and reflecting upon objects, we will diſcover ſimilitudes and differences; that is, we will be enabled to form *diſtinct ideas* of things. The faculty of forming diſtinct ideas we call *underſtanding* in the reſtricted ſenſe of the term.

If we form diſtinct ideas of things, we ſhall diſcover a connection of the one with the other. The faculty of ſeeing the connection of things is in particular called *reaſon.*

Sch. 1.—By *connection*, we underſtand that conſtitution of things, whereby the one cannot be without the other.

Sch. 2.—Thus cauſes and effects, means and ends are things connected.

We cannot ſee ſimilitudes and differences, or connection in things, if we do not *compare* them. The faculty of comparing ideas is called *judgment.*

If our mind be actuated by repreſentations of our underſtanding, we exerciſe the *ſuperior appetitive* faculty; that is, our appetite and averſon will be *rational.*

Rational appetite and averſion conſtitute what, *in the philoſophical ſenſe* of the word, is termed *will.*

Sch.—Will comprehends both will and refuſal.

The acts of the will are *volition* or *nolition.*

In

In the exercise of volition or nolition, we may distinguish the following *operations* of the mind:

1. A distinct idea of an object is formed.

2. Consequences must be attended to, which may flow from the proposed object, and shew its perfection or imperfection.

3. The object with those consequences is referred to our state, and a conclusion formed, whether the object is good or bad.

Hence it is evident, that the acts of will cannot be exercised without the exercise of attention, reflection, understanding, reason, and judgment.

Sch.—It ought to be observed, that, notwithstanding this, actions are referred to the will, and become moral, when we ought to have exercised those acts of the understanding; that is, when they were in our power, and we guilty of inattention.

Whenever we exercise acts of the will, there is something from which may be understood why we rather will than refuse.

That, which thus determines our will, is called *motive.*

As from *distinct* representations of good or evil may be understood why an intelligent being should chuse the one and refuse the other, it follows, that distinct representations afford the *matter* of motives, both for volition and nolition.

Hence it follows, that we cannot exercise any act of the will without motive.

Sch. 1.—Those who think otherwise, do not sufficiently distinguish sensitive appetite from that which is rational.

Sch. 2.—No wonder, that we often appear to will without exercising the superior faculty, as we often forego consulting

ing our underſtanding, and only follow our ſenſitive and vain inclinations.

Sch. 3.—Nay, actions which have been performed upon motives may become ſo *habitual*, that we repeat them without thinking of the motive which at firſt excited us to action.

We may repreſent good and evil as more or leſs deſirable and excellent, or hurtful and pernicious. One motive is therefore more *weighty* and *forcible* than another; and acts of the will in conſequence are differently affected, and admit of various degrees of reſolution.

Sch. 1.—The more motives conſpire, the ſtronger our reſolution will be.

Sch. 2.—If motives lead to that which is flattering to our ſenſitive inclinations, our reſolutions will not only be ſtrong, but prompt, eaſy, and delightful.

Sch. 3.—But good and evil ſuggeſted by our ſenſes and imagination do not always meet the approbation of our underſtanding; the conſequence is, that the will comes often into *colliſion* with our ſenſitive appetite, and its reſolutions become faint, or are entirely ſubverted.

Sch. 4.—In ſuch caſes, motives ought to prevail over flattering deceitful appearances; our will ought to maintain its ſuperiority; man ought to make a ſacrifice of ſhort-lived ſenſual pleaſures for laſting, nay, everlaſting felicity.

Strong and perſevering reſolutions of the will are acts of virtue or vice. They bear the names of paſſions in a perfect analogy to thoſe produced by ſtrong and lively ſenſitive repreſentations, but they are really different from them; a material diſtinction, therefore, *in our mind* is neceſſary, if we will not confound virtues with good diſpoſitions, and place black and heinous vices upon a par with evil inclinations and propenſities.

Sch.—As rejoicing in the Lord, hoping in God, fearing his name, are excellent virtues, ſo, on the contrary, there are

are not more pernicious vices than rejoicing in ſin, deſpairing of God, blaſpheming his name, &c.

By ſenſes, paſſions, habits, cuſtoms and examples, many are tempted to judge that to be good which is bad, and that bad which really is good. Good and evil is therefore to be diſtinguiſhed into real and apparent.

Apparent good is an evil repreſented as a good; and *apparent evil* is a real good under the falſe appearance of an evil.

Sch. 1.—In the judgment of an idle boy going to ſchool is an evil, but play a deſirable good.

Sch. 2.—It requires the greateſt care and diligence to guard againſt falſe appearances.

There are frequent occurrences in life, when ſeveral goods offer themſelves, which cannot be attained at the ſame time, but where in chuſing the one, we muſt deprive ourſelves of the other. In the ſame manner evils may threaten us, which are of that nature, that in endeavouring to avoid the one, we muſt meet the other.

All we can do in ſuch caſes is to make a true eſtimate of the degrees of good and of evil, in order to diſtinguiſh the greater from the leſs.

This leads to the idea of *relative good and evil*; where a leſs good choſen in preference to a greater, aſſumes the quality of an evil, and a leſs evil preferred to a greater has the effect of a good.

Sch.—Hence the rule, of two goods chuſe the greateſt, and of two evils admit the leaſt.

From the nature of our ſoul it may be proved, and by daily experience we are indubitably convinced, that our

our will is imperfect, ſtands in need and is capable of improvement.

Our will becomes more perfect and determined the more we attain to a diſtinct knowledge of things, particularly in reſpect of the good and evil that may proceed from them. For the more ſolid our knowledge, the more powerful is the dominion of our will over the appearances of ſenſe, and the allurements of paſſion.

Our will is not ſubject to coaction or compulſion, for it reſts upon repreſentations of our underſtanding, which no human power can controul.

Sch. 1.—Conviction and perſuaſion will lead the will.

Sch. 2.—By violent means the will may be affected; they may obtrude to the intellect a compariſon between things to which it has been averſe, and preſent painful experiences, and cauſe the former to appear the leaſt of the two evils: then it is that thoſe means aſſume a moral complexion, ceaſe to be coactions, and become in a manner motives.

Sch. 3.—However that may be, no great dependence ought to be placed in means, which, for the moſt part only produce ſenſitive inclinations that laſt as long as fear and dread excite the mind, cauſe involuntary deceitful changes, and leave the hardened ſtubborn heart untouched.

Sch. 4.—Thoſe who have the care of education, of families, &c. ought to conſider that love begets love, that tenderneſs creates attachment. Government is eaſy and pleaſant when we bear rule in the hearts of men.

Sch. 5.—Brutes, capable only of ſenſitive inclinations, may, and often muſt be directed by force.

Sch. 6.—If men act a brutal part, they have no cauſe to complain of ſeverity and violence.

From what has been ſaid, it clearly appears, that acts of will are ſpontaneous, conſequently *acts* of *choice*.

The faculty to determine ourſelves to action upon previous

previous conſideration, is called *liberty*; and actions thus done or omitted, are *free*.

In a free action there muſt be ſpontaneity in the agent, contingency or room for choice in reſpect of the action, and a poſſibility of our diſtinctly knowing its nature and effect before the commiſſion or omiſſion thereof.

Sch.—Actions, to which no intrinſic principle determines us, are *free from neceſſity*; not to be determined by the authority of another, is to act *free from ſubjection*; when no force compels us, we are ſaid to be *free from coaction*.

Moral actions are not always free in themſelves, but muſt ultimately depend upon or originate in free action.

Sch.—A drunkard, in a fit of intoxication, is not able to exerciſe his underſtanding; the folly, rudeneſs, &c. of his conduct, are not free, being neceſſary effects of a diſordered brain; but they are moral, if his will was the cauſe of inebriation.

Moral actions, whether conſidered in themſelves or under circumſtances, have their *conſequences*; theſe referred to the moral ſtate of man will either conſiſt or not conſiſt with the ſcope of his eſſence, and conſequently render them either good or bad.

If we attend to the conſequences of moral actions, we conſider them as *materially good* or *bad*.

Conſequences flowing from actions conſidered in themſelves cannot change; that is, an action, as ſuch, produces always the ſame effect; in this caſe, actions materially good or evil are *neceſſarily ſuch*.

Conſequences, that flow from actions conſidered under circumſtances, render them *contingently good* or *bad*; that is, their effects differ as the nature of thoſe circumſtances are different.

Sch.

Sch.—Confinement of an innocent, or of a wicked dangerous perſon, muſt be conſidered in a very different light.

Hence, actions and their conſequences being things connected by nature, may, in that point of view, be ſaid to be *naturally good* or *bad.*

Actions naturally good or bad may be known by reaſon and experience.

Sch.—The natural conſequences are objects of experience; their dependence upon the nature of actions and of circumſtances, comes under the cognizance of reaſon. He who knows the deleterious nature of poiſon, will certainly condemn the wickedneſs of a perſon taking or adminiſtering it for the horrid purpoſe of deſtroying life or health.

Material good or evil is *inſeparable* from our actions, becauſe effects are inſeparably connected with their cauſes.

Hitherto we have confined ourſelves to the conſideration of what is called the *matter* of actions; but it is time we ſhould now conſider what it is that gives to moral action its peculiar *form*, and diſtinguiſhes it from all other actions. Here the enquiry is not ſo much whether an action has produced a certain effect, but whether that effect was intended by the agent.

Actions done with a good intention are ſaid to be *formally good*; thoſe proceeding from a contrary intention, are *formally bad.*

Actions may be formally good, though they be materially bad; and *vice verſa.*

Sch.—For inſtance: a well intended though unlucky amputation, ending in the loſs of life.

The conſequences of moral actions, by which they are formally good or bad, conſtitute their *morality* or *immorality.*

Sch.

Sch.—If it be our part to determine what degree of morality or immorality be in a certain action, we have to attend to the conſequences of the action, and ſee whether they be or be not intended. According to the intention of the agent we pronounce actions attended by good conſequences *moral*, thoſe attended by bad conſequences we call *immoral*.

Sch. 2.—Thus we ſee, that the term *moral*, when applied to human conduct, is taken both in a general and in a reſtricted ſignification: according to the former, all intended actions are moral; in the reſtricted ſenſe, *thoſe only* which are done or omitted with a *good* intention.

Hence we conclude, that all *moral* actions are either moral or immoral; for they preſuppoſe intention, and are attended by conſequences.

Morality and *immorality*, flowing from the nature of actions, and the nature of circumſtances, in reference to the nature of the intention by which they are done or omitted, are *intrinſic*; the conſequence is, that they are *inſeparable* from moral actions, and, as they are naturally connected, may be known by reaſon and experience.

Sch.—To ſtab an innocent man, with a malicious intention to deſtroy his life, cannot but be an action in the higheſt degree immoral, though it were ſanctioned by the approbation of high authority.

Good or bad conſequences, flowing from moral actions, may *depend* alſo *upon the will of another*; we may therefore conceive morality or immorality, which is *extrinſic*, not natural, but *poſitive*.

Sch. 1.—Extrinſic morality or immorality may depend upon cuſtoms, or upon particular injunctions or prohibitions.

Sch. 2.—Morality and immorality that are *merely* extrinſic, may be ſeparated from actions; for cuſtoms may change, injunctions and prohibitions ceaſe, &c. For inſtance, we may do work in a week day, which is improper or forbidden on the Sabbath.

Sch. 3.—As all morality or immorality has a neceſſary connection with the will and intention of the agent; it follows,

lows, that no action that is not ſpontaneous can be moral or immoral.

Sch. 4.—A part of a houſe broke down by a ſtorm, or a perſon falling from a ſcaffold, cauſing the death of a man, are actions equally diſaſterous, and equally innocent, if the latter has not been guilty of neglect.

CHAPTER II.

Of Moral Obligation.

THERE are innumerable actions in *our power*, *formally* contingent, affording unlimited ſcope for choice, in reſpect of actions as well as mode, place, manner, and time for their performance: yet we find, that our mind does not remain in ſuſpence, but reſolves upon one individual action, mode, place, manner, and time, in preference to all others.

This particular reſolution is found always to be in conſequence of, and in conformity to motives; for it is the nature of motives to controul our ſpontaneity, giving the mind a particular impulſe and direction, and thus cauſing a *moral neceſſity* for doing or omitting ſuch particular actions rather than others.

Whenever we are thus actuated by motives, we are ſaid to be under a moral obligation; ſo that *moral obligation* may be ſaid to conſiſt in a *connection of motives with our actions.*

Sch.—Writers, who contend that moral obligation is *only* conſtituted *by the will of the ſuperior*, rejecting all other definitions thereof as vague and chimerical, ſeem to have abſtracted their ideas from the effect of laws and governments in civil life, where all obligations ultimately derive their force from the will of a ſuperior. Under the *ſuppoſition*, that all who claim the right of a ſuperior, be lawfully

lawfully veſted therewith, and that lawful authority be always juſtly exerciſed, their definition might be adopted with ſafety. But who can feel ſo great a degree of predilection, as to venture a truth of the greateſt importance upon a ſuppoſition, the fallacy of which may be proved from the frequent records of hiſtory, from the imbecility of the human mind, and the imperfection of all human affairs. Here we have not to take things according to the notions and practices of men; we have not to copy the ideas of right and wrong from human laws and inſtitutions; on the contrary, we ought to look for the eternal and unchangeable principles of juſtice and equity, which flow from nature, and which alone can be the infallible guide and foundation of civil law, and all that can be right and excellent in governments. How many monſters has the world produced who have uſurped authority? How often do folly and caprice aſſume its ſacred name and appearance? Suppoſe both ſuperior and authority lawful, can the wiſdom of men always warrant a wiſe, juſt and proper exerciſe of that authority? What therefore is moral *obligation*, that has no other foundation than the will of an human ſuperior, but an expedient in moſt caſes unſafe, and at beſt as fickle and unſtable as the various ſentiments and devices of men.

The definition, which we have laid down, is not liable to ſuch exceptions, as it ſufficiently guards againſt all that is unlawful in the exerciſe of authority and oppreſſive in obligation, and, on the contrary, enjoins, upon a foundation that cannot be ſhaken, a rational and ſincere reſpect, deference and obedience to all lawful ſuperiors in all that they juſtly require.

For a lawful ſuperior on the one hand derives his authority from a juſt cauſe, and on the other, is under the moſt ſacred obligation to exerciſe it in conformity to juſtice. But both cauſe and direction of juſt authority muſt have for their object the felicity of all who are under that authority. Public felicity is therefore the motive why authority ſhould be lawfully exerciſed, and why the will of a ſuperior thus exerciſing his authority ought to be reſpected and obeyed. Here then we find a connection of motives, and of conſequence obligation.

All

All that can be ſaid in reſpect of moral obligation, reſts upon the conſideration of the cauſes of that connection, upon the motives connected, and upon the quality of perſons, actions and things to which it extends.

Connection is an effect that muſt have its originating cauſe or cauſes.

Obligation in this reſpect is either *natural* or *poſitive*, or *qualified*; as the connection of motives reſults either from the nature of actions and of circumſtances, or from the will of another, or from both.

Sch.—That we ought not to commit murder is a qualified obligation, enjoined both by nature and by the ſanction of civil laws.

Poſitive obligations are *divine* or *human*, as motives are connected either by the will of God or of man.

All *natural obligations* are *divine*; for nature, and all that flows from it, is by the will of God.

Sch. 1.—If we wiſh to ſatisfy natural obligation, we muſt look up to and be actuated by the will of God. For inſtance, *we muſt ſtudy ſobriety, not only from a conſideration that it has the greateſt influence on our happineſs, by invigorating our health, preſerving our life, and affording our ſoul that ſerenity of mind, that tranquillity and peace, which riſe ſuperior to all changes and viciſſitudes of time and chance;* but, *we ought alſo to reflect, that this virtue is commanded by God, that a faithful performance of it is pleaſing to him, that a contrary conduct is a grievous ſin, and ſubjects us to his awful diſpleaſure, &c.*

Sch. 2.—Divine obligations may be *merely poſitive;* as, *circumciſion* and other *ceremonial inſtitutions* of the Old Teſtament.

If connection of motives ceaſes, we are *liberated from obligation*; if new motives be connected, *new obligations* ariſe.

From

From poſitive obligations, whether divine or human, we may be liberated; for the connection of motives may ceaſe. But this cannot be with reſpect to natural obligations, they are *unalterable* and laſting as nature itſelf.

Sch.—Qualified obligations conſequently admit of liberation as far as they are poſitive.

Actions may reſt upon many motives, and in this reſpect may be diſtinguiſhed into *ſimple* and *compound*. A ſimple action reſts upon one motive; a compound upon many.

A compound action may be conſidered as an *aggregate* of as many ſimple as there are motives.

Obligations therefore admit of *quantity*, which is to be eſtimated by the *nature* and *number* of motives.

Sch.—In reſpect of the nature of motives, it muſt be obſerved, that the intrinſic are always more important than the extrinſic.

Obligations conſequently may be diſtinguiſhed into *greater* and *leſs*.

When obligations come into *colliſion*, we muſt make an exception in favour of the greateſt.

Such is the imbecility of the human mind, that perſons may *conceive* a connection of motives where it is not, or where, if they were better informed, they would do the contrary. In this caſe motives are miſtaken and wrong, and the conceited obligation *erroneous*.

Sch. 1.—Many of the perſecutions in church and ſtate have taken their riſe and progreſs from erroneous obligations.

Sch. 2.—The error of ſuch conceited obligations may be ſeen by others, but the perſon labouring under the miſtake ſincerely thinks he is in the right, and all wrong who are of

of a contrary ſentiment. Oppoſition commonly increaſes enthuſiaſtic pride and obſtinacy.

Sch. 3.—Perſons of that claſs are rather objects of pity than ridicule or perſecution.

Sch. 4.—If a remedy is to be applied, let it be conviction. Conſtraint is only allowable in *caſes* where the effect has, in a direct manner, a fatal tendency to diſturb the felicity of ſociety; and even, in ſuch caſes, coercive meaſures ſhould be uſed with all poſſible humanity, prudence and moderation, and *principally* levelled againſt the effect.

Sch. 5.—Upon the queſtion, Whether it would not be better to make uſe of coercive meaſures, than to leave our fellow creature under an error that may be fatal to him and to others? we anſwer, that human authority is not competent to judge the conſciences of men; that ſuch an authority aſſumed may be abuſed to oppreſs a conſcience that is right, and actuated by a juſt obligation. *To judge the conſciences of men is the ſole right of God.*

No rule for action that is contrary to natural obligation can be right; it muſt be falſe and erroneous.

Sch.—This propoſition is very important, as it is an infallible *ſtandard* for a wiſe and faithful diſcharge of legiſlative authority; where errors and defects, which human wiſdom cannot always prevent, ought to be corrected and remedied as ſoon as experience brings them to light.

As men often ſubſtitute *habit*, *prejudice*, *cuſtom*, *propenſity* and *paſſion* for motives, there is no wonder that, in the moſt important occurrences of life, they looſe ſight of true obligation, and give way to error and fanaticiſm.

As motives preſuppoſe diſtinct repreſentation of good or evil, it follows, that no perſon can be put under moral obligation who cannot exerciſe underſtanding, reaſon, and judgment.

Actions which are free or moral, admit of motives, and therefore come under obligation.

Sch.

Sch. 1.—Hence it follows, that neither brutes, nor children before their years of diſcretion, can be put under obligation.

Sch. 2.—In directing brutes, we muſt work upon their ſenſitive appetite and averſion, and connect conſequences with their actions, whereby they obtain a ſenſe of good or evil in them, and are prompted to feel inclinations in conformity to that ſenſe.

Sch. 3—Humanity requires, that means for directing the actions of brutes be as gentle as poſſible.

Sch. 4.—Great prudence and care is requiſite in the management of children; like brutes they may be driven into a compliance with our wiſhes, but, unlike to them, by too great ſeverity, and too frequent violent coercions, they may be hardened, rendered brutal and obſtinate. Never give place to anger, at leaſt never ſhow it in chaſtiſements, for it has a monſtrous form, and is alone ſufficient to defeat the end for which this part of diſcipline is made our neceſſary duty. The power of firſt impreſſions and the force of examples have great influence upon the tender mind; they may effect great changes and fixed habits in the inclinations of youth, both for the better and for the worſe.

Sch. 5.—We have gained a great deal if we have gained their affection; the young mind ſhould therefore be cultivated at a very early date; we ought to work upon their ſuperior faculties by reproof, and advice holding forth motives; for children generally have ſufficient diſcretion in all things neceſſary for or ſuitable to their ſtate and condition, and by proper management may be cauſed to exerciſe it in other things ſooner than they would be able to do if left to themſelves, or conſigned to the contagion of vulgar company and bad examples.

No action which is not contingent in itſelf, and in the power of the agent, can admit of moral obligation, *impoſſibilium nulla eſt obligatio.*

Beſides ſpontaneity in the agent and contingency in reſpect of action, it is particularly neceſſary for rendering actions truly obligatory, that they *have a good tendency*; for that obligation alone is true and real, which

enjoins

enjoins what is good and prohibits all that is evil; becauſe for that end only a connection of motives can take place.

Sch. 1.—Obligations that enjoin to do what is bad, or prohibit what is good, are abſurd and void.

Sch. 2.—Obligations contrary to our private good, are ſtill binding, if they have for their object public felicity; in this caſe there would be an obligation, not to do what is evil, but to chuſe from two goods the greateſt.

Sch. 3.—Obligations which have neither private nor public good for their object, are nugatory and invalid, let the authority by which they are eſtabliſhed be ever ſo reſpectable.

Sch. 4.—As the wiſeſt lawgivers cannot always foreſee the effect which laws may produce, or may be miſtaken in their well-meant intentions, it is poſſible that they form obligations, burthenſome in their nature, and grievous in their effects, militating againſt both public and private good. A queſtion ariſes, whether citizens, in ſuch caſes, may immediately throw them aſide, withhold their obedience, and take the liberty of chuſing for themſelves.

This queſtion, as it is of great moment and importance, appears at firſt ſight to be extremely difficult; much, however, of that difficulty will vaniſh, if we reflect upon other weighty civil obligations, which enjoin to every citizen all poſſible care and perſeverance for the maintenance and preſervation of peace and good order in ſociety, ſo eſſential to the promotion of public good. Theſe obligations, which particular acts cannot ſuperſede, dictate in all caſes of a grievous nature, moderation, forbearance and patience, joined to a magnanimous ſolicitude, conducted with prudence, to try all poſſible means for redreſs, rather than to break in upon the tranquillity of our fellow citizens. What is a temporary ſubmiſſion to grievances, compared to the horrid conſequences of anarchy and confuſion? Is not a leſs evil, in colliſion with a greater, to be conſidered as a good? Public commotions are generally attended with evils and calamities, which involve preſent and future generations in the moſt ruinous conſequences; they are therefore to be placed among thoſe

thoſe expedients which cannot be juſtified but by extreme neceſſity, where grievances are wickedly and intentionally multiplied and ſtudiouſly continued, where all lawful means in the power of men have proved abortive and fruitleſs.

Sch. 5.—The effects of human laws are for the moſt part things eventual: as we are pleaſed with thoſe which happen to be beneficial, we ought to exerciſe patience under ſuch as are of an adverſe nature.

Since the ſcope of moral obligation is to enjoin that which is good and to prohibit evil, it follows, that a faithful performance of our obligations renders our ſtate perfect, and procures to the mind pleaſure and ſatisfaction.

Sch.—Moral obligation is therefore the *friendly directrix of liberty.*

Exerciſe of liberty, contrary to obligation, is *licentiouſneſs.*

Moral obligation is for certain *ends*, and *extends to all the means neceſſary* for their attainment: for ends and means are things naturally connected; the one is therefore inſeparable from the other.

Sch. 1.—The conſideration of the extent of moral obligation in this reſpect, is of infinite importance to all human affairs, particularly in the weighty concerns of government, where inconceivable miſchiefs may ariſe from not carefully obſerving a due diſtinction between ends abſolutely neceſſary, and ſuch as recommend themſelves by plauſibility, or reſt upon temporary expediency.

Sch. 2.—The intolerable hardſhips under which nations ſtruggle are weighty and incontrovertible arguments why the ſplendor of their governments ſhould not dazzle our eyes, or tempt us eagerly to adopt their maxims.

Sch. 3.—Citizens, murmuring againſt contributions which have a neceſſary and ſalutary influence upon public good, betray a want of diſcretion and of public ſpirit; they wiſh, in ſuch caſes, to ſeparate protection and allegiance

from that ſupport without which the one cannot be afforded, and the other becomes void and nominal.

Obligations and rights are of a *reciprocal* nature, and always dependent upon one another, as cauſes and effects. As there cannot be an effect without a cauſe, ſo no right can be juſtly claimed or exerciſed except it accord with a previous obligation.

Sch. 1.—Could, for inſtance, the higheſt public authority claim and exerciſe the rights of ordering military ſervices or impoſing taxes, if citizens were not previouſly under obligations to defend the ſtate and to ſupport its government? or, can government extend the exerciſe of thoſe rights in an arbitrary manner to the deſtruction of the ſtate? We muſt anſwer in the negative; for things phyſically connected cannot, and thoſe of a moral nature ought not to be ſeparated. To pretend that rights might be claimed without, and exerciſed beyond or contrary to obligations, would be aſſerting that effects can take place without a cauſe.

Sch. 2.—This natural and indiſſoluble dependence of rights upon obligations deſerves our particular attention, becauſe rights are generally more obvious to our apprehenſion and more pleaſing to our feelings than obligations: theſe always lay us under a kind of reſtraint, while it is the property of rights to impoſe no reſtraint upon ourſelves, but to lay the burden of obligation upon others.

Sch. 3.—Hence we diſcover a principal cauſe why we generally feel a reluctance in performing our obligations; and why, on the other hand, we are ſo apt to boaſt of our rights. Hence it is, that men, actuated by ſenſe and paſſion, often claim rights where none really exiſt, and are prone to extend thoſe which they poſſeſs beyond their juſt and proper limits.

Hence it is likewiſe, that the beſt eſtabliſhed governments, conducted with all poſſible moderation, prudence and juſtice, cannot be entirely free from jealouſy and difference in ſentiment between rulers and the ruled.

From this natural connection of obligation and right it evidently follows, that even poſitive obligations cannot

not be arbitrary, but muſt be conformable to the nature of man, of things, and of circumſtances. Poſitive obligations depend upon the will of others; but that will ought to be directed by motives, and, if properly exerciſed, cannot be contrary to, but muſt be in uniſon with natural obligation.

Sch.—Government can in no inſtance be juſtifiable in commanding citizens to act contrary to public good; nor can any act of government make the commiſſion of a ſin juſt and lawful.

There is a diſtinction between human obligations and their correlative rights: ſome are of ſuch a nature that their performance is liable to compulſion, whilſt others leave the performance to our diſcretion and good will. In the former caſe, obligations and rights are *perfect*; in the latter, *imperfect*.

Sch. 1.—All acts of equity and humanity are of imperfect right, and reſt upon imperfect obligation. To attend to the neceſſities of the poor, to clothe the naked, to feed the hungry, to direct into the right way thoſe who are gone aſtray, &c. are important obligations upon all who are bleſſed with the means of aſſiſtance; and on the part of thoſe who are in want, there is a ſacred right to apply for comfort and relief. But from want and miſery no right can reſult that may juſtify force and compulſion: the right of the poor and the diſtreſſed in this caſe is imperfect, and ſo is the obligation on the part of the rich and wealthy; it reſts with them to judge whether aſſiſtance is in their power neceſſary or proper.

Sch. 2.—But all acts of ſtrict juſtice are of perfect right, and reſult from perfect obligation. To oppoſe juſt, laudable and ſalutary purſuits, by hindering our neighbour in the uſe of juſt means in his own power, is an act contrary to his right and our obligation. If he deſiſt upon our interference, he cannot ſatisfy an important obligation; on the contrary, he countenances a bad action, teeming with conſequences fatal to himſelf and to mankind in general. In vain are his rights, and to no purpoſe are means in his power,

power, if in ſuch caſes he cannot compel us to act conformably to our obligation and to abſtain from unjuſt interference. His natural obligation to make a proper uſe of thoſe means with which he is bleſſed for good ends, gives him in this caſe the right of compulſion, and our obligation not to interrupt him in his juſt purſuits is perfect.

We call that *our own* in which we have a perfect right, and whereof we can diſpoſe as we pleaſe.

Sch.—With reſpect to God we cannot call any thing our own; our perfect and excluſive right can only have reference to our fellow creatures, as all that we have is of him, and we ourſelves the work of his hand. This conſideration alone is ſufficient to prove that nothing can be indifferent in all that we do or think, and that abuſe is unjuſtifiable above all things. Let the ſons of luxury and pride look upon the hand that ſcatters abroad his bleſſings upon men and beaſts, and all that has breath; is it not for wiſe and good purpoſes that their lot fell into lovely places? Is it not that they ſhould abound in virtue, in gratitude to God and benevolence to men? Let thoſe whoſe hearts are too obdurate to feel the weight of theſe reflections, conſider, that even the nature of their right condemns all indifference of conduct with reſpect to God and men. It is true, in our perfect right no man may interfere; but can we have or exerciſe it juſtly, if we act contrary to our obligation? But what is more inconſiſtent with, more repugnant to our ſacred invariable obligation, than ingratitude, inhumanity, luxury, with its natural offſpring, pride, oppreſſion, injuſtice, impiety, &c.?

CHAPTER III.

Of Moral Law.

MORAL obligations obtain particular energy and binding force, if declared, preſcribed, enjoined, and ſanctioned by juſt authority; thus qualified, they become

come imperial rules for human conduct in all circumſtances and ſituations of life, and aſſume the appellation and nature of *moral laws*.

Sch. 1.—Logicians call thoſe definitions *real*, which ſhew the geneſis, origin, and nature of the object defined. Of this deſcription is the definition juſt given. Upon due examination it will be found not to diſagree in any neceſſary point from the *nominal* definition generally adopted, according to which *moral law is a general rule, given by a ſuperior to an inferior, for regulating human conduct, declaring what is right or wrong, or in what manner man ought to conduct his actions and uſe his powers and faculties:* on the contrary, it has that particular merit above the latter, that at firſt ſight it more preciſely determines the idea of a *true* ſuperior upon the principles of juſt authority, with reſpect to the right of giving rules for human conduct, and the juſt mode in which it muſt be exerciſed. It alſo guards againſt a poſſible abuſe of power in the adminiſtration of juſtice, by excluding all *arbitrary* rules of right and wrong from the ſacred character of moral laws. Laſtly, it maintains that our moral obligation in its nature is to be left inviolate by the commanding rule of authority: this gives to the former force and ſanction, but can in no inſtance change its nature—No authority can cauſe true obligation to ceaſe to be ſuch, nor render that right which is repugnant thereto, under any circumſtances whatever.

Sch. 2.—It muſt be deemed a high recommendation to our definition, that it is in perfect uniſon with the invariable and ſacred laws of God, both the natural and the revealed. His authority, founded in his infinite power and godhead, ſo manifeſtly declared in the works of creation and preſervation of the univerſe, gives infinite luſtre and incomprehenſible majeſty to the divine laws; but is it not the peculiar glory, excellency, and beauty of thoſe laws, that they likewiſe have their eternal and unchangeable foundation in the infinite wiſdom and goodneſs of God, enjoining nothing but what is profitable and good? He, the Lord of the univerſe, is clothed with abſolute authority, and can do all that he pleaſes; the world is his, and all that is therein; but he is pleaſed to govern man by thoſe holy laws which his infinite underſtanding from eternity

eternity has ſeen fit and neceſſary for his glory and the happineſs of men; laws which are neceſſarily holy, perfect and immutable, for infinite wiſdom has laid their foundation, infinite power carries them into execution, and infinite goodneſs directs their effects. The will of God is that we ſhould be happy. His laws enjoin and command, by ſanctions the moſt powerful, benign and majeſtic, *our true, our real obligation to endeavour to be happy indeed.* Here rules for our conduct and our moral obligation perfectly agree: the language of the laws of God is, THIS DO, AND THOU SHALT LIVE.

Sch. 3.—Behold the *glorious pattern*, the *infallible criterion* of all that is excellent, juſt and deſirable in human laws! But is ſuch a perfection attainable by frail mortals, and in affairs of which men are to have the management? We anſwer, and in its place ſhall prove, that it is the obligation of each particular individual to uſe his beſt endeavour to come as near it as poſſible: is it not the divine command which lays this obligation upon all men—*be ye perfect even as your father which is in heaven is perfect?* Can there be, therefore, an exception with reſpect to thoſe who are inveſted with the right to direct the actions of men? Muſt it not be their indiſpenſible duty to make uſe of their authority for the happineſs of ſociety, ſtates and nations? Is it not the nature and deſign of the great power intruſted to them, that dictate the neceſſity of copying after the great and glorious lawgiver in diſpenſing benignity, philanthropy, and diſintereſted juſtice? How otherwiſe ſhould they maintain the high character of GODS ON EARTH?

Sch. 4.—How happy for the good of ſociety would it be, if theſe principles were always realized in human legiſlation! Oppreſſions and tyranny would ceaſe; arbitrary meaſures would never appear or have any duration under the form and ſacred character of laws: envy, detraction and ſedition, with a train of black vices and calamities on the part of the governed, if ever they ſhould make their appearance, would find not even a pretext, much leſs countenance. Societies, ſtates and nations would be bands of brothers, and enjoy happineſs indeed.

But alas! it is to this day a matter of doubt, whether ſuch principles can be put in practice; the idea is generally ridiculed

ridiculed and ſpurned at by thoſe who, being in authority, have the power to bring about reformation in points where arbitrary meaſures have aſſumed the form of laws: the notion has become familiar, that human authority has unlimited ſcope: even authors who profeſſedly have treated of the nature of moral laws, favour an exception from the great rule, *that the laws of God maintain general ſupremacy over human inſtitutions and laws;* thus they countenance the notion, that human laws have a peculiar character for themſelves, entirely diſtinct from the law of nature and revelation, diſtinct, conſequently from the nature of moral law. For, to give but one inſtance among the many, what does it avail, that we adopt the great truth which the celebrated Blackſtone lays down in words very expreſſive, *upon theſe two foundations, the law of nature and of revelation, depend all human laws;* when we find that almoſt in the ſame breath he affirms as a truth, *that there are a great number of indifferent points in which both the divine laws and the natural leave a man at his own liberty;* with the additional obſervation, that in reſpect of them *human laws have their greateſt force and efficacy?* He proceeds, and ſpeaks of points not indifferent, for inſtance, murder, and allows human laws declaratory force only, thence inferring their ſubordination to the laws of nature and of revelation. Laws, therefore, according to his *tacit* confeſſion, which act upon things indifferent, do not act in ſubordination to them. The conſequence then is, that all human laws depend upon thoſe divine laws, the natural and the revealed; and that ſome human laws, particularly thoſe which have great force and efficacy, do not depend thereon! If thoſe unchangeable divine laws leave points indifferent, how can human laws, acting upon ſuch points, depend upon them? No, according to this reaſoning they depend upon the will of the legiſlature; they have no ſolid permanent foundation, but are arbitrary. Should God thus leave his rational creatures to arbitrary diſpoſal? It cannot be. His laws leave not one point indifferent: actions as neceſſarily have their conſequences as cauſes their effects: theſe conſequences have influence upon human nature, individuals, ſocieties, &c. they are conſequently far from being indifferent in the ſight of God's natural law, which extends to all actions admitting of morality or immorality.—

ty.—Suppoſe that actions were indifferent, or their influence to human obſervation imperceptible, which certainly cannot be the caſe with God, could the exerciſe of liberty, could our choice be indifferent, when it is evident from the nature of things, that acts of choice are acts of the will? Where there is room for choice, there is a connection of motives, moral obligation, and cognizance of moral law, and of courſe controul of the laws of God. Does it follow, that an action is indifferent becauſe it does not amount to murder? The diſtinction into *malum in ſe*, *an action wicked in itſelf*, and *malum prohibitum*, *an action wicked becauſe it is forbidden by law*, cannot prove that the latter is more indifferent than the former; all that it intimates is, that actions have various degrees of deformity and guilt, and variouſly influence human happineſs. The forum conſcientiæ extends to all actions; and human laws prohibiting actions which are repugnant to natural and revealed law, add indeed more guilt to diſobedience, make actions more immoral, as new motives added naturally increaſe obligation, and leave leſs culpableneſs and excuſe. They are ſubordinate to the divine laws, but have, notwithſtanding this, as full force and efficacy as if they acted upon any other point. Theſe things will be placed in a clearer light in the fourth chapter of this treatiſe, where we propoſe to ſpeak of the various degrees of morality or immorality in human actions.

A ſmall degree of attention will enable us to defeat the force of the examples by which the author illuſtrates his reaſoning. In the caſe of murder, human laws, ſays he, have but a declaratory force, and act in ſubordination to the divine laws: in points indifferent, for inſtance, exportation of wool, they have their greateſt force and energy; they enjoin and ſanction obedience, and, as muſt be ſuppoſed by the author's reaſoning, change the nature of action, make what is innocent or indifferent guilt.

But why may human authority prohibit the exportation of wool? Is it becauſe the action is indifferent? Upon this ſuppoſition, how ſhall we account for the juſtice and wiſdom of the legiſlature? Is it becauſe it would be contrary to public good? In this caſe we can both account for the wiſdom and neceſſity and juſtice of the law: it is then not an arbitrary proceeding acting upon a point which

which is indifferent, but very important indeed to the happineſs of ſociety: it is giving a rule for the conduct of citizens, which perfectly agrees with their moral obligation, under which they are naturally and neceſſarily as members of ſociety, *to abſtain from all that is contrary, and to do all things which are beneficial to public good.* Behold here a moral obligation preſcribed, enjoined, and ſanctioned, in perfect conformity with the ſacred character of moral law, in ſubordination to the laws of God, both the natural and the revealed! Why ſhould citizens obey that law? becauſe it is their indiſpenſible obligation; an obligation preſcribed and ſanctioned by authority upon the principles of right and eternal juſtice. If all citizens were faithful to, if they but knew their obligation, they all would abſtain from an exportation prejudicial to public good, although there were no reſtraint or prohibition to the contrary: even were there a law enacted to command that exportation, they would, ceteris paribus, as ſacredly be bound to tranſgreſs that law, as they are bound to tranſgreſs that which ſhould command and enjoin the perpetration of murder: becauſe, in both caſes the command would be inconſiſtent with their true and real obligation: and there is only this difference, that murder is of direct, tranſgreſſion in the other caſe of indirect maliciouſneſs, and that the former has an immediate pernicious effect, the other a very remote one.

If the prohibition is juſt and neceſſary for the ſupport of the poor and the encouragement of honeſt induſtry, and for the benefit of the whole community, a tranſgreſſion of that prohibition may become in its conſequences very fatal; as citizens, for want of employ, may habituate themſelves to ſtealth, and periſh by the hand of juſtice —others drag out their days in a comfortleſs and ſtarved condition. Such a point ſhould be indifferent!

We admit the principle, that upon the law of nature and the law of revelation, all human laws depend, and maintain, that there is not room for any exception, in reſpect of any of them, ſo that NO RULES FOR HUMAN CONDUCT GIVEN BY ANY AUTHORITY WHATSOEVER, CAN BE LAWS OF A BINDING FORCE, UNLESS THEY AGREE WITH THE LAWS OF NATURE AND OF REVELATION ENJOINING OUR TRUE AND REAL OBLIGATION, AND CONSE-

QUENTLY BEARING THE STAMP AND CHARACTER OF MORAL LAW.

Hard as this concluſion may bear againſt proceedings of a long ſtanding, which have taken their origin in times of ignorance or confuſion, or have ſprung up from the violence of party ſpirit, gaining ſtrength from habits and intereſtedneſs; little as it can boaſt the ſupport of learned authority; unfriendly as it may be to men, who have accuſtomed themſelves to rule independent of natural juſtice; ſtill it is true. Founded in the nature of things, and having for its ſupport the internal evidence of truth itſelf, it ought to be regarded as the palladium of a juſt adminiſtration of government, and a guide at all times and in all places for the diſpenſation of juſtice.

Neither do we ſubſcribe to the idea, that human laws, in points, according to the author, not indifferent, have but ſole declaratory power. Has the perpetration of a crime, as murder, no influence upon the felicity of ſociety? Should not, therefore, human laws exerciſe the ſame right to prevent, and to puniſh ſuch as are guilty thereof, as they have the right to puniſh all who act contrary to the juſt and ſalutary laws of the land? By all means—governments may and do exerciſe that right.

Sch. 5.—It remains to account for the innumerable indifferent things and actions known by the appellation of *permiſſions*, becauſe human laws take no cognizance of them. Theſe are facts which cannot be denied, but afford no ſolid objection againſt the preceding animadverſions; as that indifference is not in conſequence of the natural and revealed law of God, or of moral law, but a neceſſary effect of the imperfections of human legiſlators. Be their ſtations ever ſo high, their power and wiſdom ever ſo great, they do not ceaſe to be men; they are neither omnipotent nor omniſcient. Hence ſome things, in reſpect of human laws, muſt remain indifferent in their nature; others will be ſo under a variety of circumſtances.

Of the former kind are all concerns of conſcience in things in which men are only accountable to their God, as certain modes of worſhip: how may men dictate here, where they cannot ſee nor controul the hidden thoughts and windings of the human heart? or how can they controul what is not controulable by violence and force? Finally, how

how dare they uſurp the prerogative of the Moſt High? All they can and ought to do, in caſes where the felicity of ſociety is really endangered, is to put a check upon the fatal effects of errors, innovations, &c. with all poſſible prudence and moderation, leſt they incur the juſt imputation of being guilty of acts of oppreſſion, perſecution and tyranny.

Theſe are things which, in their nature, ought, before human tribunals, to remain indifferent. How happy would it have been for the cauſe both of humanity and chriſtianity, if theſe truths had guided the counſels of church and ſtate!

But there are alſo many things, many actions indifferent, upon which human laws might act, if it were not for want of power and wiſdom. It would be endleſs work, far ſurpaſſing human power, to direct each individual man by name in each individual action, under each particular circumſtance of mode, time and place, and in each ſituation and relation of life. Only God can and really governs thus: each man partakes of human nature, enjoys the powers of conſcience, is placed in particular circumſtances by providence, is gifted with particular talents, for all which he is accountable to his God, who has written his law into the heart of every man, and knows and judges his thoughts. In the revealed law of God, wherein he declares and commands what men muſt do to be ſaved, the rules are general, becauſe the means afforded to each perſon are the ſame, and conſequently things in themſelves of a general nature. But it is quite otherwiſe in reſpect of the natural law of God; here all obligations are of an individual nature. It is left to human wiſdom and a proper uſe of reaſon to bring them under general rules and forms; for actions have a ſimilarity; many, therefore, may be conſidered of a kin, and come under certain ſpecies or kinds.

For inſtance: Injury comprehends murder, theft, bearing falſe-witneſs, &c.

But human legiſlators, ignorant of individual perſons, not able to watch and to controul each ſtep of the conduct of men, equally unqualified to foreſee effects, conſequences and relations, muſt content themſelves with general rules, comprehending often certain deſcriptions of citizens only,

or actions of a certain claſs, complexion and tendency; human laws can and do, therefore, give only general characters and marks, whereby we are to ſee our obligation in ſpecial caſes. It is on this account always a difficult taſk to know their extent and their proper ſenſe and meaning.

We could add, that with reſpect to human laws, perſons aſſume the general character of citizens, and as ſuch are alike with others under general moral obligations.

Theſe obligations muſt be performed by individual actions, which are determined as well in reſpect of our relation with other citizens, as the particular mode, place, circumſtance, or any other quality whatſoever. Behold then the neceſſity of general rules, pointing out our particular moral obligation! But let it be remembered, that rule is for the ſake of obligation, and not obligation for the ſake of rule.

We may only adduce one or the other inſtance from human laws, in order to be convinced of the propriety of theſe remarks.

The moral obligation of citizens is to defend the ſtate; government has a right to enjoin that obligation; each citizen is bound to obey a law ſo ſalutary, ſo neceſſary, ſo perfectly conſiſtent with their indiſpenſible obligation. But what would become of the ſtate, if all muſt take arms? Is public good conſulted, if manufactures of a neceſſary nature, if agriculture, &c. are at a ſtand? Muſt not wiſdom direct, that a certain claſs of citizens, of a certain age and occupation, perhaps a certain number only, ſhould oppoſe the enemy, the reſt remain for cultivating the earth, adminiſtering juſtice, &c.?

One obſervation remains, that things, indifferent in the eye of human laws, muſt ceaſe to be ſuch as ſoon as their influence upon public good becomes known: likewiſe, precepts or prohibitions that have a dangerous effect, muſt either be changed into permiſſions, or turned into their oppoſites. So there will be no end to the obligations, to learn wiſdom, that we may ſee the right way, and endeavour to abound more and more in uprightneſs, that we may walk therein.

Thus we have endeavoured to ſhow, that all laws ought to have theſe two eſſential characters of moral law;

law; *true moral obligation*, and its ſanction by *juſt authority*. From theſe ſources flow all the general diſtinctions and properties of laws.

Laws are *preceptive* or *prohibitory*, as they import affirmative or negative obligations: theſe enjoin the omiſſion, the former the performance of certain actions: thus the firſt law of the ten commandments is prohibitory, for it enjoins omiſſion; *thou ſhalt have no other gods before me*. The fourth and the fifth, on the contrary, are preceptive, &c.

Sch.—However proper this diſtinction may be with reſpect to the general obligations which form the principal character of laws, yet it by no means extends to all their particular injunctions. There cannot be ſuch a thing as a preceptive law entirely diveſted of prohibitions; neither can there be prohibitory laws which comprehend not precepts; for precepts and prohibitions are correlate ideas; the one cannot exiſt without the other. How, for inſtance, can our conduct be conformable to any precept, if we do not omit things which are repugnant thereto? Is it poſſible for men to be juſt who wallow in acts of unrighteouſneſs? The ſame is the caſe with prohibitions and prohibitory laws. How can we act conformably to the law which commands, "thou ſhalt have no other gods before me," if we do not endeavour to ſeek after the true God, to deſire to know, to reverence, and to put our truſt in him?

No laws can be given to perſons who are not capable to exerciſe underſtanding, reaſon and judgment; for they are incapable of moral obligation.

Sch.—Hence it is, that infant children, lunatics and madmen are not under the cognizance of laws.

Laws are *univerſal* or *particular:* theſe import obligations which bind a limited number of perſons, but the former enjoin univerſal obligations, binding to all.

Sch. 1.—The terms univerſal and particular being what is called correlate ideas, are taken in a greater or leſs extent. The idea

idea of univerſality with reſpect to men, in its greateſt latitude comprehends the whole human race, and leaves whole nations, ſtates and ſocieties under the character of particular ideas; but univerſality is often reſtricted to the idea of nations, ſtates and ſocieties, and leaves under particular conſideration certain claſſes, deſcriptions, or a plurality of their reſpective members: theſe again may be formed into univerſal ideas, comprehending a greater or leſs number of individuals.

Sch. 2.—The laws of the ten commandments, and all natural laws, are, in the moſt extenſive ſignification, univerſal; for they bind all mankind.

Sch. 3.—Human univerſal laws bind whole nations and ſtates; all citizens, for inſtance, are bound to defend the ſtate.

Sch. 4.—Human laws are for the greateſt part particular; for though all members of ſociety are bound to promote the common good, and all citizens to defend the ſtate, yet there are many occupations and many ways in which common good is to be purſued, and there are alſo many things neceſſary for a vigorous defence of the ſtate beſides military ſervice; agriculture is not to be neglected, neceſſary manufactures muſt be attended to, &c. Many exceptions and modifications muſt therefore enter into laws providing for common or public good; many diſpenſations will be found neceſſary and expedient.

As human laws act upon a vaſt variety of intereſts, under an inconceivable multiplicity of circumſtances, we need not wonder that we often meet with intricacies and difficulties in determining their extent with reſpect to the perſons and actions which come under their cognizance. Laws are conceived in words, and theſe have not always a preciſe meaning; or their ſenſe may be variouſly affected by the connection of ſentences in the various expreſſions neceſſary to ſhew the particular modifications of the obligations which laws intend to ſanction. The ſenſe and extent of the precepts and prohibitions muſt therefore often remain fluctuating, ſo that they are ſubject to different conſtructions, and

ſometimes

ſometimes admit of diſpute. It is therefore neceſſary to have a foundation for the conſtruction of laws, leſs liable to change and more uniform than words. This muſt be the very cauſe that gave riſe to them; the end and ſcope for which they were enacted. The cauſe and ſcope of laws muſt therefore lead our inquiries into their extent, and finally determine our deciſion: on this account they have obtained the appellation of *the ſpirit of laws*.

But how ſhall we always diſcover the true cauſe and ſcope of laws? may it not be often a ſubject of controverſy? It may be: but we ſhall find our inquiry in that reſpect greatly facilitated by conſidering the *occaſion* of laws; that is, by attending to a concurrence of circumſtances which have given riſe to them.

Sch. 1.—He therefore who would determine the extent and meaning of laws, muſt not loſe ſight of their ſpirit—muſt not be inattentive to the occaſion of their origin.

Sch. 2.—For inſtance: in times of a public commotion, laws may paſs which lay great reſtrictions upon perſons in the purſuit of neceſſary and innocent occupations. Should that reſtraint continue when the affairs of the ſtate or city are ſettled, and all things bear the aſpect of peace and good order? Attend to the occaſion of thoſe laws, and you will find that theſe reſtrictions have loſt their efficacy. Suppoſe farther, that the law forbids any perſon to be ſeen in the ſtreet after a certain hour; can that extend to a meſſenger ſent for a phyſician in a deſperate caſe? can it extend to the phyſician? Here certainly is an exception, if the ſpirit of the law be conſulted.

No actions come under the controul of laws which are not in our power, or which depend not upon our will; for in ſuch caſes no obligation can take place.

Sch.—It was not a law, but an act of tyranny, that commanded the Iſraelites to make bricks without ſtraw.

The

The ſpirit and ſcope of all laws ought to be, that we do what is good and avoid all that is evil; for this alone can be the ſcope of our true obligation.

Sch. 1.—Laws which command what is bad, and prohibit what is good, are grievous oppreſſions, and void in themſelves.

Sch. 2.—Laws which have no good for their object, are nugatory and invalid.

Sch. 3.—Laws are ſalutary and have binding force, which have public good for their object, though they bear hard on private intereſt.

Sch. 4.—Should laws prove to be contrary both to private intereſt and public good, they would ceaſe to bear the ſacred character of laws, and have no validity in themſelves.

Sch. 5.—Upon the queſtion, Whether we are at liberty to ſet thoſe laws aſide? we anſwer, that public authority, for the ſake of peace and order, is entitled to great reſpect and deference; that one improvident act cannot diſannul the powerful obligations which are kept inviolate under the protection of the laws of the land. Public felicity, ſo inſeparably connected with the obſervance of order, renders it adviſeable, nay neceſſary, that the ruled bear patiently a temporary inconvenience, and purſue the moſt gentle means for redreſs of grievances. Thoſe who are ſo very apt to find fault with government, and magnify ant-hills into mountains, ſhould conſider, that their rulers are but men; that a government watching for the wellfare of a ſtate or a nation, is a momentous and arduous taſk; that laws have to take a proſpect of things which are yet in the womb of futurity; that effects of the beſt intended means are often problematical; that it is not in the wiſdom or power of men to foreſee or to controul events. There is ſuch a thing as a laudable jealouſy on the part of the governed, which keeps pace with the ſituation and concerns of the public good, and aims at an inviolate enjoyment of our natural and political rights. The character of a good citizen, of a patriot, is not to court popularity, by catching at every opportunity to render government odious in the eyes of his fellow citizens; public good is his primum mobile; he will be inceſſant,

ceſſant, but prudent and moderate in his endeavours to ſeek a happy change in all that has not a benign influence on public happineſs.

And who ſhould be more ready or willing for ſuch a change than men in authority, who have power to rectify all that is improper? Should they not be vigilant, even anticipating applications for redreſs, by timely adminiſtering ſalutary and neceſſary remedies, when any public meaſure has taken place which anſwers not public good? Is it not for this end that the very power they poſſeſs is intruſted to them? Men of true wiſdom will always be conſcious of their own fallibility—the guardians of the laws ſhould firſt ſee their effects. It is no diſgrace to any government to rectify abuſes: it is, on the contrary, a circumſtance not altogether honourable to the underſtandings or the hearts of rulers, if grievances are continued: I know of no epithet ſtrong enough to convey the idea of deteſtation and abhorrence which a government deſerves, if it ſhould perſiſt to defend or ſupport them.

Upon the preceding propoſition, which proves the good and ſalutary tendency which all laws ought to have, depend the ideas of *legal* morality or immorality: where actions conformable to law are conſidered as good, thoſe which are repugnant to its precepts or prohibitions are bad: actions, concerning which laws do not determine, are *permiſſions*; that is, actions legally indifferent.

Sch. 1.—As it is poſſible that unjuſt laws exiſt, it is alſo poſſible that actions be *legally bad* which are really good, and vice verſa.

Sch. 2.—How often have unjuſt and tyrannic laws condemned as treaſon and hereſy, actions the moſt heroic and beneficial to the cauſe of God and man?

Sch. 3.—In one forum an action may be permitted, which in another is not ſo. In the forum of nature and of nature's God no action is indifferent; no permiſſion takes place.

Sch. 4.—All actions which concern the conſciences of men ought to remain indifferent in foro civili: civil laws

may only reſtrain the effects of ſuch actions when they have a fatal tendency with reſpect to public good.

Sch. 5.—All actions indifferent in foro civili, becauſe their good or bad influence upon public felicity is not immediately diſcernible, cannot be ſuch when experience points out their influence.

We are ſaid to *obey* a law, if our conduct is conformable to its precepts and prohibitions upon the ſtrength of motives taken from that law: a contrary conduct is called *diſobedience*.

Sch. 1.—Hence every action conformable or contrary to law cannot immediately be conſidered as an act of obedience or diſobedience: for inſtance; ſtrangers not knowing our laws may conduct themſelves in conformity to them from a ſenſe of propriety; they cannot take motives from laws of which they are ignorant. Likewiſe, foreign miniſters are not amenable to our laws; they are not bound to obey them; ſtill, from a principle of good ſenſe, decorum and politeneſs, they will not act contrary to them.

Sch. 2.—As laws have for their object to command what is good and to prohibit what is evil, it follows, that by obedience we obtain a good, and ſubject ourſelves to evil by diſobedience. Obedience to juſt laws will therefore render our ſtate more perfect; diſobedience, on the contrary, will render it more imperfect both in the eye of law and in reality.

Before laws are given, they cannot be obeyed or diſobeyed; for no legal motive is afforded for regulating our conduct.

Sch.—Ignorance of a law, with reſpect to an individual, is to him as if it were not in exiſtence; for our mind can be as little affected by what is unknown as by that which does not exiſt.

Laws can only direct with reſpect to things which may take place, not of ſuch as have already happened.

Laws which have retroſpect on things paſt, are ſtiled *ex poſt facto laws*. Such contradict every principle of reaſon;

reaſon; are acts of unpardonable injuſtice, and oppoſed to the very idea of law.

It is impoſſible that a perſon can obey a law, or be guilty of diſobedience, if the knowledge thereof is not in his power.

To cauſe laws to be known that they may become obligatory and binding, is called the *promulgation* of laws.

Before promulgation no law can be known; conſequently neither obedience nor diſobedience is poſſible.

Sch.—It is therefore a conſideration well worthy the attention of government, and of great importance to the community, that laws be properly promulgated: a queſtion ariſes, whether publication in a newſpaper is ſufficient to cauſe all the inhabitants of an extenſive country to know the laws by which they are governed? To put laws not ſufficiently promulgated into execution, is more to lay ſnares for the governed than to take proper care of their conduct and to benefit ſociety.

Laws cannot properly be ſaid to be known if they are not underſtood; hence it is evident, that laws muſt not be contradictory to themſelves, that they be intelligible, that they be declared and preſcribed in words the plaineſt and the moſt unequivocal, that every ſentence be well determined and expreſſed, to prevent miſconſtruction and miſtake.

Sch.—If it be unavoidable entirely to abſtain from technical terms, it follows from what has been ſaid, that they ought to be uſed as ſeldom as poſſible. They may ſerve to diſplay learning and ſkill, but muſt remain unintelligible to a great part of the community.

Whatever care is taken to render laws clear and intelligible, yet ſuch is the condition of the human mind, ſuch the nature of language, that it is impoſſible to convey ideas with ſuch preciſion as to leave no room for

for a poſſible miſapprehenſion. It is therefore neceſſary to explain the true ſenſe, meaning and extent of laws; that is, laws muſt be often *interpreted.*

Interpretation is diſtinguiſhed into the *authentic*, the *cuſtomary*, and the *doctrinal.*

Sch. 1.—Authentic interpretation proceeds from the lawgiver; the cuſtomary is inferred from the cuſtoms of a country, or a particular diſtrict thereof, nay, even from particular uſages of towns; the doctrinal depends upon the application of the rules of grammar and logic, and upon inferences drawn from the ſpirit and occaſion of laws.

Sch. 2.—Some adduce precedents as helps for interpretation; but as theſe may be good or bad, it is to be feared that dependence upon them is often very unſafe.

Ignorance of laws is ſaid to be *vincible*, if it has been in our power to know them; if otherwiſe, it is *invincible.*

Sch.—One who labours under invincible ignorance may violate a law, but cannot be guilty of diſobedience.

Since it is the ſcope and nature of ſalutary laws, that in all their precepts and prohibitions they contemplate the happineſs of thoſe who are under their cognizance and controul, it neceſſarily follows, that nothing is of greater conſequence to the general felicity of mankind than obedience, nothing more hurtful and pernicious than diſobedience; for as ſuch laws, duly obſerved, neceſſarily produce ſalutary effects, affording protection of life and property, and ſecuring that peace, harmony and concord which render ſocial intercourſe deſirable, and diffuſe eaſe, comfort and happineſs into every ſtate and condition of life; ſo acts of diſobedience, on the contrary, defeat theſe ſalutary ends, fruſtrate the good intentions of the lawgiver, deprive mankind of the choiceſt pleaſures of which this life is capable, and ſpread abroad

abroad diſſention and confuſion to the annoyance of all that is agreeable and delightful in human converſation.

Hence we ſee, that the nature of laws, the intention of the lawgiver and the very happineſs of mankind require that the due obſervance of laws ſhould be made as important as poſſible, by affording to all who are under their controul the ſtrongeſt motives, ſufficient to excite every well-wiſher to mankind, every friend to human happineſs, to acts of faithful obedience, and to deter from wanton diſobedience thoſe whoſe hearts are either ſtrangers to the tender feelings of duty and humanity, or who are too weak to withſtand the temptations and allurements of vice.

Laws are ſaid to be *ſanctioned*, when ſtrong and powerful motives are connected with acts of obedience and diſobedience, calculated to enſure their faithful obſervance: this will be the caſe, if conſequences highly beneficial and intereſting are connected with acts of obedience, while the contrary will reſult from diſobedience; for in this manner obedience will become a great, a deſirable good, diſobedience a deteſtable evil.

As good or bad conſequences, reſulting from acts of obedience or diſobedience, have reſpectively obtained the name of *rewards* and *puniſhments*, it follows, that laws muſt be ſanctioned by rewards and puniſhments.

Laws thus ſanctioned place obedience, which is the baſis of all virtue and all that is excellent in human conduct, in its true light, and hold up to public view diſobedience, that defiling ſource of ſin and vice, in its deteſtable turpitude and deformity; for rewards and puniſhments, in their nature and effects, are of great extent, and have the greateſt influence on the deareſt intereſts of mankind. Leaving to an abler pen the taſk

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of making reſearches into the various cauſes that may have co-operated and ſtill co-operate to render the ſanctions of divine and human laws of ſo little importance to the generality of the children of men, as to leave room for doubt whether there is ſuch a thing that deſerves the name of ſanction, and in its nature can ſhield the inviolability of laws from unhallowed infractions, we content ourſelves for the preſent to ſhow, that the great unconcernedneſs obſerved in human conduct, the neglect of the laws of God and of men, does not proceed from the nature of moral law, nor from the nature of any laws which bear its ſacred character, nor from a defect in the ſanctions thereof. Theſe in their nature are powerful, and will not fail to be ſo in their effects, where they act upon a ſober mind, unbiaſſed by prejudice, paſſion or evil propenſities; a mind immaculate, not blinded or debauched by the contagion of bad examples and practices. Are there motives more powerful than the principles of ſelf-intereſt, the deſire after honour and a good character, or the inward ſenſe of happineſs and contentment? Behold, all theſe principles are embraced by the ſanctions of laws!

What can be more truly intereſting than obedience, ſince it is the only ſure, neceſſary and efficacious mean whereby all the beneficial intentions and effects of laws, enſured and enhanced by the additional advantages of their ſanctions, are *realiſed* and appropriated to ourſelves? Protected by the law, we are free from fear and danger of the puniſhment which follows tranſgreſſion, both by the nature and tendency of the violated prohibitions and ſanctions thereof. Is it not, on the contrary, the natural effect of diſobedience to ſubject the violator

iator to all evils which flow from tranſgreſſions and the ſanctions of laws, and to deprive him of all their beneficial intentions and ends?

Do we not feel a deſire after honour and praiſe? do we not eſteem highly the good opinion and approbation of others? and who does not feel himſelf deeply affected without them? What a powerful incentive to obedience is that innate ſenſe of honour of which the moſt wicked and profligate cannot entirely diveſt themſelves! We have only carefully to diſtinguiſh true honour from adulation, flattery, pride and folly, and we ſhall find that faithful obedience to law is the only road which leads to true honour and praiſe: as an action of a benign influence on ſociety, it muſt have *merit* in the ſight of God, of the human lawgiver, and of all who value virtue and human felicity; and in its effect muſt be reckoned a public benefit. Muſt not the agent, the upright man, the good citizen, by ſuch conduct naturally attract the attention of the lawgiver and of all good men, have their good opinion, and meet their approbation? Is it not in this that true honour and praiſe conſiſt?

What *demerit*, on the contrary, ought diſobedience to have in the ſight of the virtuous part of mankind? As it is an action oppoſed to the general good of ſociety, muſt it not be abhorred and deteſted by all who feel for the cauſe of humanity and juſtice? muſt not the agent be conſidered by them as an enemy to peace, good order and public happineſs, and meet their cenſure and blame?

But what far exceeds all external honour and praiſe, is above all worldly ſplendor and greatneſs, even where it is merited and juſtly beſtowed, and is, at the ſame time,

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our ſupport under all manner of adverſity—our conſolation in death, is the *internal ſenſe* of the rectitude of our intentions and actions, which faithful obedience and virtue doth not fail to inſtill. How great is the reward of virtue! inward ſatisfaction and peace! the approbation of a good conſcience! the approbation of our God! the enlivening ſenſe of his favour, and a glorious proſpect of eternity!

Reverſe this delightful picture; you will ſee what bleſſings the diſobedient ſervants of ſin and vice loſe in ſlighting the rewards of virtue. The puniſhment they draw upon themſelves, by their wanton tranſgreſſions, exceeds the power of expreſſion—exceeds human comprehenſion!

Sch. 1.—If that be true which in the beginning of this chapter we have endeavoured to prove, that all human laws ought to bear the benign, majeſtic and immaculate character of moral law, as far as is attainable, we may with confidence aſſert that their ſanctions are of equal extent.

It is true, human laws, with reſpect to the authority of men, have but an external effect; their power cannot reach the internal feelings of the heart: if laws are obeyed, that is all human authority requires, and that is neceſſary for the maintenance of the peace of ſociety: before an human tribunal, no enquiry is made concerning the principle of obedience, whether it is love of virtue, or ſervile fear of puniſhment.

But it is alſo true, that more is required for ſecuring obedience and the happineſs of mankind, than human laws can effect. That which they cannot reach is under the controul of the laws of God, and under the power of conſcience. Before the tribunal of God, and at the bar of our own conſcience, we are accountable for all our actions, whether they be done or omitted in the private walks of life, or in our ſocial and public relations.

Sch. 2.—Hence the neceſſity and great uſefulneſs of religion in every ſtate and condition of life, as it engages the conſciences of men, and requires in all our actions ſincerity and

and inward rectitude, and impreſſes the ſoul with a moſt lively ſenſe of our reſponſibility for all we do or think, before the tribunal of him who judges in righteouſneſs, and will render to every man according to his deeds.

Permiſſions, as has been already obſerved, are actions of which certain laws take no cognizance.

Sch.—In one forum an action may be a permiſſion which in another comes under cognizance of laws, and perhaps is a high tranſgreſſion. With reſpect to the juriſdiction of the United States, there are a number of actions permitted, which, by the laws of the reſpective ſtates, are highly criminal, and vice verſa. All that is ſtrictly a matter of conſcience human laws wiſely conſider as permiſſions; but all actions of that nature are accountable before the tribunal of God.

Abrogation, derogation and diſpenſation are terms which have reference to human laws acting upon eventual objects, which are for the moſt part problematical and uncertain; it may, therefore, be, that all or only ſome precepts or prohibitions of laws fail to produce the intended effect, or in their operation happen to have an oppoſite tendency. If all precepts and prohibitions have ſuch an operation, they all ought to be changed into permiſſions, or even into their oppoſites, ſhould there be caſes to require it; that is, the whole law ought to be *repealed* or *abrogated*.

But if there are but ſome precepts or prohibitions obnoxious in their tendency, theſe ought to be changed; that is, the law ought to undergo a *partial repeal*, known by the name of *derogation*.

Diſpenſation does not introduce any change into the precepts or prohibitions of a law, but only reſtricts its effects in favour of ſome perſons or circumſtances.

There is a poſſibility, that of ſeveral laws certain precepts and prohibitions come into colliſion; in which

caſe it is a queſtionable matter which we are to obey, and which, under that circumſtance, may be ſet aſide. This queſtion is generally ſolved by the maxim, *Laws ſubſequent derogate from thoſe which are of a prior date*, becauſe it is the lateſt declaration of the will of the legiſlator; and what difference appears in the lateſt and former laws muſt be ſuppoſed to be produced from a change of his ſentiments and will. It muſt be confeſſed, that this maxim has much plauſibility, and might be ſafely followed, if we could be certain that changes introduced are always for the better. But it preſuppoſes that laws have for their foundation only the will of a ſuperior, independent of the previous moral obligation, and therefore little good may be derived from it; for the will of the lawgiver may change for the worſe.

We ſhould rather think, that the moral obligation imported by ſuch laws, and principally affected by their ſeveral precepts and prohibitions, is the true criterion to direct our choice where laws and duties claſh.

Laws are *greater* or *leſs*, as the obligations which they import conſiſt of more or leſs motives.

If, therefore, whole laws ſhould come into colliſion, ſo that in order to obey the one we muſt ſet aſide the other, it is manifeſt that the greateſt has binding force.

Sch.—This rule was very well applied by the Apoſtles againſt the preſumptuous command of human authority, forbidding them to publiſh ſaving truth: *We ought*, ſaid they, *to obey God rather than man.* Acts v. 29.

There is alſo a notable diſtinction of laws into *natural*, *poſitive* and *qualified*, as they import obligations which flow from nature, from the will of another, or from both alike.

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Sch.—For inſtance; the law, *Thou ſhalt have no other gods before me*, is natural, becauſe it flows from the nature of God and the natural dependence of man upon him in all that concerns his happineſs; but it is a poſitive law, depending ſolely upon the will of God, which is recorded, Exod. xxiii. 17. in theſe words: *three times in the year all thy males ſhall appear before the Lord God.* The fourth commandment contains a qualified law: it is natural that man ſhould ſet apart a certain time for attending, in an immediate manner, to the concerns of his immortal ſpirit: public acknowledgments of the bleſſings received from God, acts of humility and devotion before his throne, public adoration and thankſgivings, are obligations reſulting from the nature of God, of man, and of that relation in which he ſtands with reſpect to his maker and to mankind in general. But the time appointed for this reſt depends upon the will of God, and in no wiſe flows from nature.

The law denouncing death againſt murder is another inſtance of qualified laws: this flows from nature, bears the ſanction of the will of God declared in his revelation, and has a place among the penal laws of the land.

We diſtinguiſh natural laws into *neceſſary* and *contingent*; for natural obligations may flow from the nature of actions or things conſidered in themſelves, or from their nature conſidered under circumſtances. In the firſt caſe, natural obligations cannot undergo any change or modification but are neceſſary; in this caſe, they admit of modifications, and on that account are ſaid to be contingent.

Sch. 1.—It is a neceſſary natural law, "thou ſhalt have no other gods before me;" and of this kind are all laws which have actions for their object either of internal rectitude or internal malignity, or what is otherwiſe called a good or an evil in themſelves.

Sch. 2.—But all natural laws which have force in actions that are good or bad under circumſtances, are contingent: the nature and complexion of theſe actions change according to circumſtances; for inſtance, the law, *thou ſhalt not kill*, is a natural law: it flows from the nature of man and of his

his relation to God, that he ſhould enjoy that life which is given him as well as another; it alſo flows from nature, that men ſhould rather protect than take it away. But ſuppoſe the caſe, that a perſon is attempting to take your life, or the life of your parent, your child—ſuppoſe your country in imminent danger, and many valuable lives in jeopardy; will not killing ſuch an enemy to mankind be a permiſſion, or in ſome caſes even an obligation?

Rewards and puniſhments are alſo diſtinguiſhed into *natural*, *poſitive*, or *qualified*; as conſequences connected with acts of obedience or diſobedience either flow from the nature of the law, or the will of the lawgiver, or from both alike.

Sch.—Peace and contentment, the natural rewards of virtue, may be augmented by poſitive rewards, by honour and praiſe, or by advantageous ſituations in ſociety.

Want, obſcurity and regret, the natural conſequences of idleneſs and prodigality, draw after them contempt, blame, diſgrace, ſufferings, expulſion from ſociety, &c. as poſitive puniſhments inflicted by a wiſe legiſlator.

Men need only be attentive to the internal feelings of their hearts, and they will find the effects of qualified rewards and puniſhments united.

Should it happen, by a ſtrange unconcernedneſs, both on the part of the legiſlator and on that of the community, that virtuous obedience of law be diſregarded, and tranſgreſſors thereof, the enemies of the peace and happineſs of ſociety, eſcape poſitive puniſhments, cenſure and blame, and be ſuffered to enjoy the eſtimation of their fellow citizens, be honoured and preferred, becauſe they are learned, rich, and practiſe upon their eaſineſs and credulity; we can only pity ſociety, and aſſert, that their indiſcretion is and muſt be their higheſt puniſhment, becauſe they are guilty of a conduct

conduct highly repugnant to their own felicity. Honours thus beſtowed may have the name, but are deſtitute of reality, and cannot compenſate for the want of internal peace and excellency.

It is true, there are puniſhments which have, what all puniſhments in a certain degree ought to have, ſhame and diſgrace annexed to them, as, for inſtance, our corporal and capital puniſhments: but ſhould not he alſo be blamed, who, by fraud, by breach of promiſe, or in any other unjuſt manner, oppreſſes his fellow citizens, and deprives them of their character and property?

Let us conclude this ſubject with this obſervation: as long as a community does not entertain the ſanctions of laws as they ought, it cannot be expected that laws will produce their ſalutary effects, or ſociety enjoy that peace, concord and unanimity of which it is capable, and upon which its greateſt ornament and happineſs depend.

There are natural laws, for there are obligations which flow from the nature of God, of man, of actions and of circumſtances; for inſtance, the law, *thou ſhalt have no other gods before me.*

Natural laws are *immutable*, for the obligations which they import flow from nature.

Immutability may be *abſolute* or *hypothetical:* things abſolutely immutable are unchangeable in themſelves; thoſe which are hypothetically immutable are unchangeable under circumſtances.

Laws neceſſarily natural are abſolutely immutable; they can admit of no modification whatever; for inſtance, blaſphemy, idolatry, aſſaſſination, murder, cannot

not be permitted, much leſs commanded, under any circumſtance whatever; theſe are what is called actions wicked in themſelves.

Likewiſe, actions of internal rectitude, as ſeeking after God, adoring his goodneſs, purſuing virtue, gratitude to a benefactor, no laws can forbid: though they are beyond the controul of human laws, they cannot be indifferent, or things only permitted in the forum of nature and of nature's God; they cannot but be pleaſing to him; they muſt have the ſanction of his will; and the contrary thereof muſt always be heinous ſins.

Laws contingently natural are hypothetically immutable: the nature of the action is affected by the nature of circumſtances; as theſe change, the nature of the action obtains a different modification. Though you cannot expect abſolute immutability in this kind of actions, ſtill there is, with reſpect to the modifications thereof, this unchangeableneſs: that the nature of the action has always the ſame complexion under the ſame circumſtances; for inſtance, the law, "thou ſhalt not kill," is natural; for it equally flows from the nature of another perſon and his natural relation to God, in whom he moves, is, and has being, that life is as precious to him as it can be to us; we may as little take away his life as he has a right to take away ours. The taking away his life in a wilful, malicious manner, muſt therefore be a ſin againſt the abſolute immutable natural laws of nature, and cannot be permitted, much leſs can it be right under any circumſtances whatever. But take away malignity, that internal character of murder, and you will find, that there may be circumſtances where the life of a perſon may be taken away innocently.

innocently. Suppoſe a perſon the cauſe of another's death accidentally, is he a man of feeling who has not pity for the unfortunate agent? If a perſon is killed in the act of committing murder on a parent, a child, a neighbour, or in waging unjuſt war againſt our country, who can blame, who will not highly eſteem the heroic protector of the innocent, the patriotic defender of his country?

Sch.—From this hypothetical immutability flow moſt of the maxims of morality, the reſpective rights and duties of individuals, ſocieties and nations among one another. If one perſon has a right to repel an injury by force, another, if ſuch injury is committed againſt him, has the ſame claim. If one nation may make war juſtly upon another, on account of a certain public proceeding, another nation, let it be ever ſo weak, has, under the ſame circumſtances, the ſame right, &c.

Natural laws may be known by reaſon; for all that flows from the nature of things and circumſtances may be known by that noble faculty of the human ſoul.

God has promulgated human laws, by endowing man with underſtanding, reaſon and judgment.

As far as reaſon extends, ſo far extends the promulgation of natural laws: it may, therefore, be well ſaid to be written into every man's heart.

Hence it follows, that ignorance of the laws of nature is vincible, and leaves no excuſe.

ALL NATURAL LAWS ARE DIVINE; that is to ſay, *depend upon the will of God*; for nature and all that flows from it is by the will of God.

He, therefore, who wiſhes to obey natural laws, muſt conſider them as the laws of God; that is, he muſt not only act conformably to them, becauſe they have a moſt ſalutary influence upon his own happineſs

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and the felicity of others, but principally becauſe it is the will of God—it is required by his perfections—it procures us his favour, and makes us conformable to his image: motives taken from the will and perfections of God, will elevate our minds—will render us conſtant and ſincere in our purſuits, and ſet us above every other conſideration, ſo that no envy or oppoſition can ſhake or change our reſolution to obey our God and to do his will.

Natural laws are in the greateſt latitude univerſal, for the obligations they import are binding upon the whole human race.

Sch.—All men, ſocieties, ſtates, nations and governments are therefore under the controul of the laws of nature.

Natural laws have alſo an univerſal extent to all actions of a moral nature; for natural obligations have that extent.

Sch.—Another proof that no action can be indifferent.

From the immutability and univerſality of the laws of nature, it follows, that no law can be juſt that is contradictory to the laws of nature; that with reſpect to them, no abrogation, derogation or diſpenſation can take place; that they leave no room for advice or permiſſions.

Poſitive and qualified laws, as far as they are poſitive, admit of abrogation, derogation and diſpenſation.

Natural laws may be deduced from a firſt principle, that being generally the caſe with things which have their foundation in nature.

Authors on morality ſtudiouſly differ in determining which this firſt principle is. From a laudable deſign to introduce into all deductions the original purity of the principle from which they are inferred, ſome will

will hear of no other firſt principle than the will of God. CONDUCT YOURSELF IN ALL YOUR ACTIONS CONFORMABLY TO THE WILL OF GOD: this, they ſay, is the firſt law of nature, the foundation whereon all others ſtand, the ſource from which all duties muſt be deduced: this affords motives of the higheſt nature, of the greateſt power, that have a purifying influence on the human heart, render it ſincere and upright, and elevate the mind far above the temptations of intereſt and the praiſe or obloquy of men. Here we have not to look to ourſelves or to the world: we are to look up to our God, and place our happineſs in a conformity to his will. Thoſe who differ from them fully ſubſcribe to this excellent principle, and maintain, with equal zeal, that our obedience ought to be principally actuated by the conſideration that it is the will and majeſtic command of God.

But, excellent and infinitely exalted and pure as this principle may be, ſtill they object, Whereby ſhall we know what the will of God enjoins in each particular caſe? muſt not that will be declared? and is not that which declares it prior in reſpect of our knowledge? But the will of God is declared by the natural aptitude and tendency of the nature of things to the great end of his glory and of human happineſs. What, therefore, is found by reaſon and experience to render us happy, is commanded by God; all actions of an oppoſite tendency are forbidden. The firſt law of nature, then, is, "DO THOSE THINGS WHICH RENDER THY STATE HAPPY, AND AVOID ALL THAT CAN RENDER THYSELF UNHAPPY AND MISERABLE," and muſt be conſidered as the firſt principle from which all duties, all that is right or wrong among

men, is to be deduced, whatever their ſtate or condition may be.

Before we determine which of theſe principles ought to be conſidered as the firſt, it will be neceſſary that we conſider principles in their different relations; for there are principles which have reference to the eſſence or exiſtence of things, and principles different from them, which have reſpect to our knowledge of thoſe things.

All poſſible things have their foundation in the infinite underſtanding of God.

All things exiſtent depend upon his omnipotent will.

All our knowledge of things poſſible and exiſtent is founded in their nature and effects, diſcovered by reaſon and experience.

Thus, with reſpect to moral law, it is the divine underſtanding that has ordered the natural influence and tendency of things, and particularly of human actions, in ſuch a manner as to manifeſt the glory of God and render mankind happy. His omnipotent will has called into exiſtence whatever his infinite underſtanding ſaw fit for the happineſs of his creatures; and by giving man reaſon he has manifeſted and declared his divine will, according to which man muſt conduct himſelf in order to be happy.

It is therefore our firſt and indiſpenſible obligation to endeavour to know what God in his infinite underſtanding has ordered for our happineſs, and what his divine will commands us to do or to omit, that thereby we may be enabled to act in conformity to his laws and obtain their end, our own happineſs.

We cannot, therefore, but adopt the propoſition, *do thoſe things which render thy ſtate happy, and avoid all that*

that can render thyſelf unhappy and miſerable, as the firſt law of nature, and the firſt principle from which every duty and all that is right or wrong in human conduct is to be deduced.

But let it be obſerved, that although this principle has the firſt place in directing our inquiries concerning the commands of the will of God, yet it is the divine will itſelf which ſhould be our firſt conſideration and our principal motive in practice; ſo that we conduct ourſelves conformably to the laws of nature, not ſolely from this conſideration, that thereby we render ourſelves happy, but principally becauſe it is the will of our God. Thus we ſhall, in all we do, be actuated by ſincerity and humility of heart, and walk as in the ſight of God. Our conduct then will not give occaſion to objections againſt our firſt principle, that it favours too much of ſelf-intereſt, and is liable to be perverted to many abuſes: on the contrary, it will be an animating thought, that we do the will of God if we endeavour to be really happy, and that our true intereſt, our real happineſs requires that we do his will.

Sch.—Behold the indiſſoluble connection between our duty and our intereſt! Are there any who, from motives of intereſt, tranſgreſs the laws of nature? It is not the principle of law that miſguides them; it is the perverſeneſs of their heart that blinds them; it is, that they know or mind not their true, their real intereſt.

Since, then, the principle of natural laws commands our own happineſs, it neceſſarily follows, that all of them have the ſame ſcope and tendency, and that by obeying them in ſincerity and uprightneſs we ſhall be happy. Diſobedience, on the contrary, muſt be entirely repugnant to our intereſt, as it cannot fail to render us unhappy.

What

What an important conſideration this! what a powerful motive for exciting us to habitual obedience, and for deterring from acts of diſobedience!

Habitual obedience to the laws of nature, or a habit of acting conformably to their injunctions, is called *virtue*. The oppoſite of virtue is *vice*.

An action to be done conformably to law is ſtiled *duty*.

Faithfulneſs in the performance of our duties, and the practice of virtue, are conſequently the road to happineſs. Remiſſneſs in duty, and a vicious conduct of life, lead to deſtruction.

Actions referred to natural laws conſtitute the *natural forum*.

Before the forum of nature all actions are cognizable; they conſequently will be either conformable or unconformable to the injunctions of natural laws, which, as has been ſhown, leave no action indifferent or permitted. All actions, therefore, are good or bad, and as ſuch will be rewarded or puniſhed. But as all natural laws are divine laws, it follows, that the natural forum is the *divine forum*; and we may draw this concluſion, that IN THE FORUM OF NATURE AND OF NATURE'S GOD, THERE IS NO ACTION WHICH WILL NOT BE EITHER REWARDED OR PUNISHED.

If, therefore, there are actions which are not rewarded or puniſhed in this life according to their merit or demerit, it is evident, *that a day muſt come when ſhall be rendered to every one according to his deeds*.

Laws are *perfect* or *imperfect*, as the obligations which they reſpectively import are either the one or the other.

It

It is the nature of perfect laws to give *remedial* rules againſt wrongs received; rules which warrant coercive and compulſory means for obtaining redreſs and inflicting puniſhments.

But imperfect laws afford no remedies of a compulſory nature, but leave the tranſgreſſor reſponſible for his conduct before the tribunal of God and before his own conſcience.

Sch.—Little as theſe laws may be regarded by the generality of mankind, as in the human forum they bear the aſpect of advice rather than of law, ſtill they are of the greateſt importance. They are the unalterable and eternal laws of God, of the higheſt and moſt awful reſponſibility. Here the oppreſſed and their oppreſſors muſt meet; kings, emperors, princes, nobles, the exalted, the rich, the great, the poor, the moſt diſtreſſed muſt appear as men; an account muſt be rendered for all that human laws either did or could not reach, and every man receive according to his works!

CHAPTER IV.

Of the different degrees of morality or immorality in human conduct.

EXPERIENCE evinces, that there are various degrees of rectitude or malignity in the actions of men. Theſe, referred to the intention of agents, become ſo many traits in the moral character of man, deſcriptive of the degrees of probity or reprehenſibility of his conduct. It is on this account that the languages of civilized nations apply various epithets both to actions and agents, as they are reſpectively found more or leſs conformable or contrary to their ideas of right and wrong.

Sch.

Sch. 1.—We may not, however, reſt our eſtimation of human conduct upon terms; as in their nature they are but arbitrary ſigns of ideas, they may and indeed do often change their ſignifications. This is particularly the caſe with reſpect to ſubjects of morality, as words denoting the different degrees and qualities of merit or demerit in actions, and the proper ſhare of commendation or reprehenſibility which agents ought to have in our eſtimation, are ſometimes promiſcuouſly and frequently very variouſly applied. Are not the terms juſt and unjuſt, honeſt and diſhoneſt, &c. often uſed to denote actions of the ſame quality and perſons of the ſame character? And how often does vice, with its offspring, aſſume the appearance and the names of virtues? Even theſe are often branded with epithets originally deſigned to ſhew vice in its various windings and native deformity.

Sch. 2.—It is therefore neceſſary that we define thoſe terms, in order to introduce into this ſubject that preciſion which its importance demands. With us, then, the terms, 'a juſt, an unjuſt, a reaſonable, an unreaſonable, an honeſt and diſhoneſt man,' denote not one, but very different characters: we make a material diſtinction between unjuſt, unreaſonable, and diſhoneſt actions and men.

Since, as has been proved, both perfect and imperfect obligations are indiſſolubly connected with correlate rights; and ſince it is the nature of laws, as they import moral obligations, to define our rights in conſequence thereof; we may, on the one hand, form our ideas of right and wrong immediately from the nature and extent of our moral obligation, or derive them in a mediate manner from the determinations of laws. If, therefore, we wiſh to form an eſtimate of the degrees of morality or immorality in actions, we may refer them to perfect or imperfect laws, or to perfect or imperfect obligations.

Thoſe actions which are referred to perfect or imperfect laws, are reſpectively *juſt* or *unjuſt*, *reaſonable* or *unreaſonable*.

Actions,

Actions, on the other hand, referred to perfect or imperfect obligations, are respectively either *externally* or *internally honest*, or the contrary.

Sch. 1.—A just action is done conformably to perfect law, the unjust is contrary thereto; for instance, discharging a bond, a mortgage, a note; or making over property to children or others, in order to defeat those perfect demands.

Sch. 2.—A reasonable action is consistent with imperfect laws, the unreasonable is inconsistent therewith; as giving time or remitting our perfect demands, if the debtor has been unfortunate; or, notwithstanding this, to insist upon punctual payment, and to distress the unfortunate.

Sch. 3.—An action done or omitted conformably or contrary to our perfect obligation, is honest or dishonest; for instance, to satisfy our bonds or notes before another makes demands, in as full a manner as we ought; or to take advantage of his ignorance or easiness; or to try to make satisfaction in a manner inadequate to our obligation, taking advantages of the insufficiency of laws, of terms, and other circumstances.

Sch. 4.—Actions done or omitted in conformity with our imperfect obligations may be called *pure*, or *actions done in uprightness;* for here we only consider the internal beauty or deformity of actions, consult the feelings of humanity, nay, take pattern from the ways and perfections of God.

This reference of actions to the different laws and obligations, and the distinction of the different qualities of actions in consequence thereof, are by no means things of an arbitrary nature, but founded in the essential properties of those laws and obligations respectively. For when our ideas of right and wrong are taken immediately from the nature and extent of our moral obligations, they must be purer and more certain, as they are nearer to the point, than those which we form from the determinations of human laws, the greatest merit of which consists in giving rules which come as near our moral obligation as possible.

In

In vain do we look for conſummate purity and perfection in human affairs. It is true, we may err even if we pay attention to our obligations; but the chance is much greater in reſpect of the directions of laws; for as it is the nature of human laws to contemplate only the general character of men, ſo the obligations they import are alſo of a general nature, and cannot be defined with exactneſs and preciſion in their individual qualities, with reſpect to manner, mode, time, extent, and other circumſtances of the particular actions, as well as the ſituation, ſtate and capacity of the agents. Actions conſequently referred to human laws, muſt be deemed right or wrong in conſequence of their general directions, which would have quite another aſpect when referred to our moral obligation.

Sch. 1.—Laws, for inſtance, impoſing taxes, contemplate that each member of the ſtate contribute in proportion to his circumſtances. But there is ſome property in a ſtate which can be known, whilſt there is a poſſibility that a vaſt deal is out of the reach of knowledge. If the rich man who has his property in funds, in bonds, mortgages, or caſh lying by, follows the directions of law, he will contribute far leſs than he ought to do in proportion to his income. Would he conſult his obligation, he would not ſuffer men in low circumſtances to groan under public burdens, but would voluntarily come forward and contribute his ſhare.

Sch. 2.—The honeſt man is ſtudious to ſatisfy his perfect obligation, though others may not know or not chuſe to exerciſe their perfect right; he wiſhes to live without fear and trouble, content that no man has a perfect demand upon him; whilſt the diſhoneſt takes advantage of the ignorance or eaſineſs of his neighbour, or looks abroad whether he has not a legal excuſe for rejecting his perfect obligation, or not fulfilling it in its full extent. Give this man the opportunity which laws have provided in caſe of public calamity as a remedy for reduced and diſtreſſed ſufferers, he, perhaps a gainer on that very account,

count, at leaſt not a loſer, and fully able to ſatisfy his perfect obligations, will nevertheleſs evade the perfect rights of others, by deducting intereſt, paying in paper, &c. Behold the diſhoneſt man! Let this character, deformed as it is, and made up of fraud, hypocriſy and diſſimulation, be joined to the unjuſt man, and you have a character ſtill more deformed than evaſion and diſſimulation can make it—a man of the moſt depraved and debaſed character. The diſhoneſt man is dangerous; he preſerves appearances, pretends honeſty, is loud in profeſſions of friendſhip and gratitude; he makes uſe of various windings, attempting, by all manner of plauſible means, to impoſe upon good nature and credulity, and groſſly diſappoints your confidence. But the unjuſt man does all this, and he goes much farther; he breaks through all bars of human rectitude; he cares as little for appearances and the opinions of mankind, as he minds the internal excellency of virtue or the hideous deformity of vice. Miſchief and violence are his element; to ſpread abroad oppreſſion, confuſion and miſery is his delight: in ſhort, he is to human ſociety what beaſts of prey are in the brute creation. Perfect rights, perfect laws, with all their ſanctions, have no effect upon him. Mark the character of an unjuſt man as a monſter, as a hydra of human ſociety, and obſerve, that ſuch characters are often above and beyond the reach of human laws!

The man merely juſt is made up of law; but you muſt reſort to it to oblige him to ſatisfy his perfect obligations; public opinion has little or no weight with him. If law is on his ſide, you find him inhuman and unmerciful; he puſhes his perfect right as far as the law gives him ſcope, is callous to the intreaties of the unfortunate, the induſtrious and ſober huſbandman, the honeſt trader—unaffected by the tears of widows, and deaf to the cries of orphans. Shielded by law, he is contented that his unreaſonableneſs and inhumanity are not contrary, but in the proper form and according to the due courſe of legal proceedings. Remember, therefore, when hereafter we ſhall ſpeak of the various degrees of deformity and immorality in bad actions, that thoſe who break through the reſtraints of law are fartheſt from the loweſt degree of commendation or morality, and therefore in a high degree immoral and reprehenſible. There may be a difference with reſpect to

the object of a tranſgreſſion; but tranſgreſſion, whatever its object may be, counteracts public good and defeats the ſalutary ends of laws in ſpite of all their reſtraints. The man who can export wool in oppoſition to the laws of the land, would as ſoon export powder to the enemy, if he could do it as eaſily. Set it down as an act of injuſtice. It is true, we have delineated theſe characters, perhaps, in their greateſt deformity; but drop one or the other hideous trait, and you have ſtill a multitude of actions, unjuſt, unreaſonable and diſhoneſt, degrading to the dignity of man!

But the internally honeſt and reaſonable man, what a glorious character! man indeed, a rational creature—rational in all his intentions, actions and purſuits! He is not contented with taking things as men, as human laws determine them; penetrating into the very nature of his moral obligations, he forgets ſervile fear, ſordid intereſt, legal excuſe; he ſees no beauty in an action that is barely juſt or honeſt; wiſhing to be humane and reaſonable to the utmoſt of his power, he contemplates the imperfect laws which do not command this or that action in this and that manner, and to ſuch an extent, but enjoin to do all the good we can in the beſt and ſincereſt poſſible manner, at all times and in all ſituations of life. Yes, it is the man of probity and internal honeſty who penetrates into the ſpirit and ſcope of his imperfect obligations, delights in the ſight of its beauty, taſtes the ſweetneſs of a virtuous action, is above all low conſiderations, and principally concerned to do all the good he can in truth and ſincerity. He penetrates into the receſſes of the diſconſolate, of poverty, want and human miſery; anticipates application, and ſpreads abroad the balm of comfort and relief. This is the GOOD MAN of the ancients; this character, if enlightened by the heavenly precepts of chriſtianity and actuated by thoſe animating motives which flow from the infinite love of a reconciled God, is the *man without guile!*

External deportment, where it is enquired, whether we conduct ourſelves with decency or in an indecent manner; whether our actions are proper or improper; is another ſource from which the degrees of rectitude and reprehenſibility of human conduct may be determined.

Sch.

Sch.—The rules of decency and propriety have a vaſt influence upon our actions, as a conformity to them adds much external beauty and ornament to our behaviour in the ſight of others, and brings, as it were, to light the internal frame and qualities of the mind. It is true, all good actions have native beauty in themſelves; but they are infinitely more beautiful and commendable, when performed with the greateſt poſſible decency and propriety. We may anticipate the importance of decency and propriety in human conduct from this conſideration, that we expect neither of them in brutes or in infant children, they being confined only to perſons who can exerciſe underſtanding, reaſon and judgment. Is it therefore a wonder, that we form ideas of the internal ſtate of the mind according to the degrees of decency or indecency diſcovered in actions?

Men differ very much in their ideas of decency and propriety, or the contrary; and it is a queſtion, whether any fixed rule and ſtandard can be given to enable us to diſtinguiſh truth from error?

To ſolve this queſtion, let us define the ideas, and ſee whether they are founded or not founded in nature; if the latter is the caſe, we ſhall not only find rules, but rules as unalterable and unchangeable in the moral ſenſe, as nature itſelf.

What is conſiſtent with the nature of an intelligent being, and with its internal and external ſtate, is naturally *decent* and *proper*; the contrary is naturally *indecent* and *improper*.

Sch. 1.—All juſt, honeſt, reaſonable actions are naturally decent; the contrary naturally indecent: the former are conſiſtent with the nature of a rational being, the latter are inconſiſtent therewith.

Sch. 2.—All actions conſiſtent with the internal ſtate of the mind, are naturally decent and proper; the contrary are naturally indecent and improper.

We expect another deportment in the learned than that of a man who is illiterate and rude. If a religious man ſhould

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uſe the language of the prophane, it would be ſhocking; if the latter ſhould ſpeak religious ſentiments, it would cauſe ſurpriſe, perhaps diſguſt. What would be ſhocking in a Chriſtian, cauſes no ſurpriſe in a Jew. If Chriſtians and Jews ſhould bow before ſtone and wood, or adore the works of the hands of men, who could bear the ſight? in a heathen it has ſo much of propriety, that we revere that ſenſe of religion which the former perhaps have laid aſide.

Sch. 3.—What agrees with the nature of our external ſtate is naturally decent and proper; the contrary indecent and improper.

What a glory is added to an exalted ſtate by affability, condeſcenſion and modeſty, that virtue which becomes every ſtate and condition of life! How amiable is the character of citizens paying reſpect to perſons in public ſtations, loving and honouring them! How truly excellent theſe, if their perſonal virtues juſtify that diſtinction! What a beautiful ſight to diſcover among fellow citizens, brethren, fellow ſtudents, an aſſiduity to pleaſe, to ſhew friendſhip, to be polite and civil to one another!—The rich man is only decent in a rich dreſs; the poor would make in it a moſt ridiculous figure. The ſtrong, the robuſt looks beſt employed in hard labour, and carrying along with him the emblems thereof; a tarry veſtment adorns the ſailor, &c. The decrepid, the ſick, the cripple may with decency apply for relief and ſupport; a thing that would be a diſgrace to human nature in a young man of ſtrong conſtitution and in the vigour of health.

Sch. 4.—The ſenſe of decency and propriety is an internal ingredient to many an excellent virtue. What is humility? I anſwer, a decent ſenſe and opinion of our merits; for one who errs in defect is not the man of humility, but abject; he who has too great an opinion of his merits is arrogant and proud. A decent, a proper management of our affairs, with reſpect to expence, is œconomy, frugality; the exceſs, luxury, prodigality; the defect, ſtingineſs, avarice, &c.

Sch. 5.—The juſt man exerciſes little decency, the honeſt more; the diſhoneſt ſtrives to have the appearance: the reaſonable man and the upright give, what they give, with the beſt grace, reprove with ſympathetic gentleneſs, &c.

There

There are alſo ideas of decency and indecency, of propriety and impropriety, which, reſting only upon the general opinions of mankind, are not only various and very different, but alſo of a moſt fluctuating and changeable nature. Here is not the queſtion, whether an action is decent and proper, or the contrary, but whether, in human converſation, it is deemed ſuch. If theſe ideas can conſtitute any thing, it is *faſhion*, a thing moſt multifarious and arbitrary.

Ideas of propriety and decency, or the contrary, are the criterion by which we may judge of the taſte and manners of nations, ſtates, cities, claſſes and circles of ſociety. As long as they lead to things not contradictory to natural decency, &c. ſo long we may follow them, and gently glide down the ſtream of public opinion. But if it be faſhion to ſtigmatize good actions, or if they meet not with due commendation; if, on the contrary, bad actions, diſobedience to law, &c. become faſhionable, that is, if they are countenanced by a favourable opinion, farewell to good taſte, to good manners. The manners of a people, a city, a ſociety, are debauched: were it not that they carry their puniſhment already, we ſhould ſay they are ripe for it. So much is certain, that many a one will end his career in ruin and in ſhame!

Another criterion of the different degrees of morality or immorality of actions depends on their effect and the intention of the agents. With reſpect to effects, which conſtitute what may be called the *material morality* or *immorality* of actions, little need be ſaid, as they are very obvious to an attentive obſerver, and produce eſtimation rather as an effect, than the reſult of a judgment formed thereon. All, therefore, that we ſhall ſay, will be

be to call the attention of the reader not only to the proximate, but alſo to the remote effects of our actions. This will enable us to ſee the great excellency and uſefulneſs of good, and the heinouſneſs of bad actions.

Sch. 1.—Behold the happy influence which the good education of children has upon a parent! joy, contentment for the preſent, hope and confidence in approaching days of age and of infirmity; conſolation in the hour of death! Behold the children happy, proſpering, bleſſed by their parents, and bleſſed by God! They know the value of good education; they reap the fruits thereof in their children, perhaps more abundantly than their parents did; they conſtitute good education the chief inheritance of their offſpring, to be conveyed unimpaired, rather improved, to the lateſt poſterity! Reverſe this portrait, and you form an idea of the high reprehenſibility in parents, who, though it was in their power, have neglected this great duty. How exceedingly heinous in children, if they fruſtrate the fond endeavours, the ſweet expectations of their parents, who do all in their power to promote their happineſs!

Sch. 2.—Conſider, that acts of fraud, of injuſtice and oppreſſion, are felt by a fellow citizen through the remainder of his days; that widows, that orphans, that poſterity are affected by them. The murderer kills a poſſible poſterity; unjuſt wars produce calamities which involve the innocent with the guilty, and bring poverty and ruin upon thoſe who are yet unborn. Slaughter and bloodſhed prevent thouſands from ſeeing the light. We may be dead and gone, but our good or bad examples ſtill live, being copied by children and children's children. Is it therefore ſtrange to read, that the Lord will viſit the ſins of parents in their children to the third and fourth generation?

But our principal object here is an enquiry into the *formal morality* or *immorality*; whether an action proceeds from intention, and with what degree of liberty that intention is purſued: for the greater our liberty is, the greater is the morality or immorality of our actions.

As

As liberty comprehends ſpontaneity in the agent, contingency in the action, and a certain degree of diſtinct knowledge of the action previous to the commiſſion or omiſſion thereof, it follows, that we have three rules for determining the degrees of morality or immorality in human conduct:

1. The greater the ſpontaneity by which an agent acts, the greater is the morality or immorality of the action.

2. The greater the contingency of the action, the greater is its morality or immorality.

3. The greater the knowledge which an agent had of the nature and conſequences of an action before the commiſſion or omiſſion thereof, the greater is the morality or immorality.

In conſequence of theſe rules, we may form the following eſtimate of a variety of actions, with reſpect to their different degrees of morality or immorality.

In actions done or omitted in conſequence of *compulſion*, there can be neither morality nor immorality, as there is no room for ſpontaneity in the agent, nor any contingency in the action.

Sch.—If a perſon is forced to do what is good, he can claim no merit; if he be compelled to do evil, he cannot be blamed. As neceſſity has no law, ſo it leaves no room for merit or demerit in actions.

Actions done or omitted under *conſtraint*, that is, where the agent is in ſuch a ſituation that he has but to chuſe between two or more actions propoſed, where conſequently but one or the other alternative is left, have morality or immorality in greater or leſs degrees, as there are more or leſs alternatives for choice. Here ſpontaneity and contingency are forcibly limited.

Sch.

Sch.—A perſon intruſted with money, for inſtance, may be attacked by a robber, who propoſes the alternative, deliver or die!

Actions done or omitted under *reſtraint*, that is, actions determined, commanded or forbidden by laws, admit of a high degree of morality or immorality. Here ſpontaneity and contingency are limited in conformity to the rules of right; liberty, conſequently, is not impaired, but directed. There is as much room for ſpontaneity and contingency as a rational man can wiſh; his will is not hindered, but led to that which is good; the action is entirely *voluntary*.

The more voluntary actions are, the higher is the morality; for the reſtraint is leſs, and conſequently ſpontaneity and contingency greater.

But it holds not good, that bad actions are more immoral in conſequence of their being more voluntary and under leſs reſtraint. On the contrary, they are more obſtinately wicked, as no conſideration, not even reſtraint, can reſiſt them.

Sch. 1.—Remember the character of the unjuſt man already deſcribed.

Sch. 2.—Let it be obſerved, that where the immorality of actions is affected by reſtraint, either of law, advice, example, or external motive afforded to the agent, it is always greater than where no reſtraint takes place, and that the degrees of immorality are in proportion to thoſe of reſtraint. In theſe caſes, therefore, the degrees of morality and immorality do not keep pace in direct proportion; that is, from the higheſt morality of good actions, we may not immediately infer the higheſt immorality in thoſe actions which are oppoſite to them. In ſome actions, therefore, there will be occaſion only to determine the degrees of morality, and leave the reader to judge of thoſe of immorality.

Actions

Actions not affected by reſtraint, have a higher degree of morality than thoſe which are done or omitted in conſequence thereof.

Sch. 1.—A perſon may do a good action becauſe the law commands or a friend adviſes its performance: the example of others may excite us, or motives afforded make it eligible. In all theſe caſes the agent may have merit, but the law, the friend, the example, the perſons affording the motives have their reſpective ſhare in it.

Sch. 2.—Suppoſe a perſon does a good action from an inward deſire to do what is right, independent of any other conſideration, will he not be entitled to all the merit?

The more internal motives we have for doing or omitting a certain action, the higher is the degree of its morality; for the agent has a greater ſhare of diſtinct knowledge than if he were actuated only by external motives.

The more external motives an agent has before he does or omits an action, the leſs are the degrees of morality, and the greater the immorality; the former is in conſequence of leſs knowledge, the latter of more obſtinacy in the agent.

Sch.—It will therefore not be difficult to ſee the far greater excellency of honeſt actions before thoſe which are merely juſt, that of the reaſonable before the honeſt, &c.

Actions done or omitted upon motives taken from the divine perfections, have the higheſt degree of morality.

A habit of acting upon motives taken from the perfections of God, is called *piety*, the higheſt degree of morality, the greateſt excellency of virtue within the compaſs of natural principles.

Sch.—Chriſtian piety is ſtill of greater excellency and purity, becauſe the motives, taken from the infinite love of God declared in the *work of redemption*, are not only the pureſt

and moſt exalted, but proceed from the pureſt ſincerity of the heart, from the principle of faith.

Actions *complicated* or *compound* contain as many motives as there are *ſimple* actions contained in them; they are therefore of a higher degree of morality or immorality than a ſimple action conſiſting but of one or a few motives, becauſe the knowledge and the ſpontaneity in the agent are greater.

Sch.—There is certainly more merit in an agent who procures and preſerves an eſtate by aſſiduous application to the toilſome duties of his calling, than in him who has gained a high prize in a lottery, or is become heir of an eſtate. There is alſo a higher degree of criminality in the act of taking away a perſon's life, when preparations have been made for its perpetration by way-laying him, by reſorting to a particular place, by ſelecting the time moſt ſuitable for producing that effect, than there is when that act takes place on a ſudden, unexpectedly, unpremeditated, in the heat of paſſion, &c.

Deliberate actions have a higher degree of morality or immorality than the *inconſiderate*; for, as the former are done or omitted in conſequence of previous conſideration, the agent acts with a higher degree of knowledge and ſpontaneity than can take place in the latter, which are done without previous conſideration.

Sch. 1.—Actions may be deliberate or inconſiderate with reſpect both to *inſtitution* and *execution*, or only with reſpect to the one or the other.

Sch. 2.—We may erect works for public defence upon a premeditated plan, and in caſe of neceſſity make the moſt vigorous reſiſtance; or we may abandon them, or give them up without any exertion at all; or be guilty of imprudence and indiſcretion in conducting that defence.

Sch. 3.—A poſt may be taken in an improper place, or may not be ſufficiently ſecured; ſtill, upon an attack, the beſt exertions may be made to reſiſt an invading enemy.

Sch. 4.—To act with deliberation, we muſt inſtitute our actions in the beſt poſſible manner, penetrate into their nature

ture and tendency, and ſpare no pains to carry our well-digeſted plan into execution.

Sch. 5.—How requiſite is deliberation in the whole tenor of our conduct! How much ſhould we attend to the conſequences of our actions! How careful ought we to be in conducting them in conformity to our moral obligation, as they have the greateſt influence on our character, our repoſe, our happineſs, and the felicity of mankind!

Remember that one inconſiderate act can ruin your happineſs, the peace of your mind and your character: conſider how deeply your parents and relatives are intereſted; how deeply afflicted if their fond hopes and expectations are blaſted by an inconſiderate conduct, to which youth is found to be particularly inclined.

We are ſaid to be the *author* of an action, when its exiſtence or non-exiſtence may be referred to our ſpontaneity: as this may be the caſe in various ways, it follows, that we may be authors of actions in different reſpects. We may be the immediate cauſe of an action, or be it in a mediate manner, by means, contrivances, or the aſſiſtance of others. Hence it is, that actions may be diſtinguiſhed into *immediate* and *mediate:* of the former we are the *immediate author*, or the *immediate cauſe*; that which ſerves as a mean to produce the latter, is called the *inſtrumental cauſe* thereof, in contradiſtinction to him who has given occaſion for it, and thereby muſt be conſidered as the *principal cauſe*. So that in all mediate actions there is a principal and an inſtrumental cauſe.

But, as inanimate things, or brutes, or moral agents may be uſed as means, we think it proper that the appellation of inſtrumental cauſe ſhould be confined to means not enjoying free agency, and that moral agents, inſtrumental in actions deſigned by others, ſhould be called the *proximate*, the latter the *moral cauſe* of them.

Thus,

Thus, in mediate actions effected by the aſſiſtance of moral agents, we diſtinguiſh the moral and the proximate cauſe thereof. And it becomes a queſtion, what ſhare of commendation or reprehenſibility pertains to the one and the other? for if things of an inanimate nature or brutes ſerve as means to effect pernicious deſigns of others, no reſponſibility can be expected on their part; the whole blame muſt fall upon the principal or moral cauſe of the action produced. But it is a very different caſe, where a moral agent, reſponſible for his conduct, preſents himſelf, or ſuffers himſelf to be made an inſtrument for doing actions deſigned by another: in a good action he muſt have merit, in a bad one he is reprehenſible, as in both caſes the actions are referrable to his will. He, therefore, *except under compulſion*, will be anſwerable for the conſequences, and the action, with reſpect to him, will have certain degrees of morality or immorality.

Mediate actions have a leſs degree of morality or immorality than the immediate. Theſe are done without any reſtraint, from internal motives, conſequently with a greater degree of ſpontaneity and contingency; the former are done by external motives, which cauſe a certain degree of reſtraint, therefore with leſs ſpontaneity and contingency.

The moral cauſe acts with a higher degree of morality or immorality than the proximate; for, with reſpect to him, mediate actions muſt be conſidered as immediate.

Sch. 1.—Here the axiom holds good, what one cauſes to be done by another he does himſelf.

Sch. 2.—We may become a moral cauſe in actions done or omitted by others, in different reſpects and degrees; for inſtance, by command, advice, conſent, approbation, connivance,

connivance, participation, by concealing, not hindering, not revealing, &c.

Sch. 3.—Thus we may become the moral cauſe in actions effected by things of an inanimate nature, not only when we deſign the effect, as by laying traps, fixing guns, &c. but likewiſe when we leave them in a condition that is obviouſly dangerous; for inſtance, leaving fire-arms careleſsly in the reach of children, letting a ruined wall ſtand, &c. The ſame is the caſe with brutes; we may dreſs them, or ſet them on to do harm, or let them run looſe, though we know that they are miſchievous.

Sch. 4.—A perſon may be conſidered as the moral cauſe of an action in general, but not of every particular thereof: for inſtance, one ordered or adviſed to beat another, may proceed too far, break limbs, or deſtroy life. In ſuch caſes the moral cauſe of the action cannot be reſponſible for outrages committed by the proximate; it is the latter that muſt be conſidered as the moral cauſe of all that is done by exceſs.

Sch. 5.—There are caſes which require undefined, unlimited power; as, the conducting fleets and armies. Here the principal cauſe of a war muſt be conſidered as the moral cauſe of all that is done in conſequence thereof. The inhuman mariner or ſoldier is far from being excuſable in any act of oppreſſion and injuſtice: commanders deſerve the higheſt puniſhment, and the execration of mankind, for having made an improper uſe of the powers intruſted to them. But, as all the glory of what fleets and armies have accompliſhed is humbly attributed to the wiſdom, the unconquerable power and greatneſs of the government, which has laid their foundation by inſtituting and planning the operations of a war; ſo certainly all outrages, all acts of cruelty, oppreſſion and injuſtice, done on the watery element or in the different quarters of the globe, muſt and will be brought to the account of the principal author of that war; he is the principal, the moral cauſe of all! Is the glory of a conqueror, therefore, an object of envy? or can acts of injuſtice conſtitute true glory?

Actions done or omitted under colliſion, are not as high in morality or immorality as thoſe in which no colliſion

collision has taken place; for in the former there is less spontaneity and contingency.

An act of the will, referred to a contemplated effect, is called *intention*; the effect contemplated is stiled an *end*.

Ends are distinguished into *primary* and *secondary*: for the former an agent would have acted independent of any other effect; for the latter he would not have acted at all, if it had not been blended with another more desirable object. In this case, our intention with respect to the chief end is called *indirect*, in the former it is *direct*.

Sch. 1.—The primary end of war is to enjoy peace, to be free from the insults and vexations of a restless nation: representations and negociations, conducted with moderation, prudence and justice, witness the direct intention of these proceedings; their end is to prevent war and to establish peace: but suppose armies to be raised, magazines to be laid up, &c. for the same end, the intention may be the same, but it is indirect: even war may be declared, battles fought, towns sacked, blood spilt, for obtaining an end which by gentle means was not attainable. Should we suppose a nation so cruel as to make destruction, plunder and bloodshed their principal object? should we derive all these calamities from direct intention? No, if there is yet a sense of honesty, justice or humanity, these things would not take place had they been avoidable: in all these proceedings the intention is indirect; it is to compel an enemy to terms of a lasting peace.

Sch. 2.—Consequences not intended, which may flow from our intentional actions, as well as those which were intended, are said to be *admitted*. Thus the destruction of lives, of property, and the dreadful catalogue of the most horrid transactions during a long and bloody war, are said not to be intended, but admitted.

All intentional actions, both direct and indirect, are of a very high morality or immorality; for they are acts

acts of the will—actions complicated, which presuppose a high degree of spontaneity and knowledge in the agent.

From this very cause it is evident, that actions done or omitted by direct intention are very considerably higher in morality or immorality than those which proceed from indirect intention.

Sch. 1.—The destruction of a city or buildings consequent upon direct intention, is the height of cruelty and inhumanity, causing our detestation; if the strength of a place, the vigorous resistance of a garrison, renders it unavoidable, it causes pity and regret.

Sch. 2.—Admissions have generally reference to the unfavourable consequences of intentional actions: according to the definition given of them, we have followed the authority of some authors rather than our own judgment. Names and terms may serve to palliate the outrages and horrid calamities inseparable from the complicated operations of war; but the natural and inseparable connection which they have with the intention of the author or authors of war, and their horrid effects, will easily discover to the unprejudiced mind their high immorality. Let the man who sets states and nations at variance, feel the whole weight of his guilt; let him have no excuse before his conscience and the world, that inhumanity, bloodshed, conflagration, &c. are things admitted only, things not intended, consequently not imputable. No, if unintended consequences may as well flow from our actions as those which are intended, they certainly ought to be taken into consideration before we determine upon an end; they consequently, considered or not considered, come within the compass of at least indirect intention, and as intentional acts, actions of the most direful effects, must have a high degree of immorality.

Sch. 3.—We might retain the term admission, to denote unforeseen consequences happening by accident; for instance, the accidental blowing up of a powder-magazine, and the death of many persons occasioned thereby.

There

There is an inconceivable variety of actions by which ends may be attained; ſuch are called *means*. Aſſiduity in performing actions, by which a mean may be obtained, is called *diligence*, a moſt excellent and neceſſary virtue; the contrary is *negligence*, a moſt deſpicable and pernicious vice.

Sch. 1.—If aſſiduity in actions intended and calculated for the attainment of ends, which are objects of laws and our moral obligations, conſtitutes diligence; we may ſee the dangerous and deformed nature of *idleneſs*, which keeps mankind buſied in things which anſwer no beneficial or ſalutary end.

Sch. 2.—Idleneſs ought to be well diſtinguiſhed from *amuſements*, which are indulged with an intention to afford a certain relaxation to the mind, that it may be thereby refreſhed and invigorated to purſue the ends of our calling with more readineſs and with greater effect.

Sch. 3.—Amuſements which ſpring from another intention, and are not calculated or uſed for that purpoſe, are temptations to idleneſs, nurſeries of vice, the enemies of virtue; they rob us of the moſt precious gift of nature, they rob us of our time.

That act of the will by which we determine the execution of an action, is called *purpoſe*; purpoſe referred to the end propoſed is ſtiled *deſign*.

Sch.—Actions, with reſpect to purpoſe, may have a moſt amiable aſpect; but referred to the deſign, they may be of the greateſt criminality and deformity. We may be aſſiduous in profeſſions and external acts of friendſhip, give entertainments, &c. the deſign may be ſordid ſelf-intereſt; or all theſe endeavours may be uſed in order to make us an accomplice in an act of treaſon, to prevail with us to betray the ſecrets of our cabinet; or the deſign may be againſt the virtue of a perſon.

Actions of purpoſe and deſign muſt be of high morality or immorality; they are complicated actions, which preſuppoſe a high degree of knowledge and of ſpontaniety,

ſpontaniety, and have a place among the moſt ſtudied and refined intentional actions.

Sch.—As we are bound to obey the law of nature, it follows that we are alſo bound to make uſe of all the means in our power in order to qualify ourſelves for that obedience; in all our actions, therefore, it ought to be our invariable purpoſe and deſign to obey the natural laws, to obey our God. This will be a ſhield againſt the innumerable temptations of flattery, ſycophancy, hypocriſy, &c. ſo prevalent among the children of men.

MORAL RECTITUDE is the agreement of our actions with the laws of truth and morality; for our moral actions depend upon the underſtanding and will; they conſequently are right, if the acts of both underſtanding and will are right. This will be the caſe if the former agree with the laws of truth, the latter with the laws of morality.

Sch.—We have not then in vain beſtowed our attention upon the principles hitherto explained; for, as they are the eternal and unchangeable laws of truth and morality, they muſt be conſidered as the baſis and the infallible criterion of rectitude in the conduct of men.

Fault is the general term whereby we deſignate a defect of rectitude. Such a defect may proceed from an act of the underſtanding or the will.

A fault that takes riſe from a defect of the underſtanding renders the agent *culpable*; that which proceeds from a defect in the will is an act of *malice*.

A knowledge of the nature, effects, and other conſequences of actions, may or may not be in our power: in the former caſe *ignorance* is *vincible*, in the latter *invincible*.

Faulty actions proceeding from invincible ignorance cannot be culpable, much leſs malicious.

Culpable actions proceed from vincible ignorance, where either no idea is formed of the action, or where the ideas are wrong.

We may act culpably from inattention, improvidency, precipitancy, or careleſſneſs; actions, therefore, may be more or leſs culpable.

Sch. 1.—We are guilty of *inattention*, if we do not ſufficiently conſider the action in general; we act *improvidently*, if we proceed to action without conſidering the conſequences; we are charged with *precipitancy*, when we take no time for reflecting on the proper mode and manner of conducting actions or for conſidering their conſequences. The *careleſs* act without any conſideration at all.

Sch. 2.—In culpable actions, therefore, the agent omits what is neceſſary for obtaining a ſalutary end: hence we may draw the concluſion, that all culpable actions proceed from negligence.

Malicious actions are *wilful*, for they proceed from defect in acts of the will.

In malicious actions the agent acts both *wittingly* and *willingly*, as the phraſe is; for the faults of the will have their origin in the underſtanding.

Malicious actions are therefore of higher immorality than the culpable, for they are acts of purpoſe and deſign; their effect is bad by intention, and their malignity is internal.

Whenever actions are ſo conducted that their outward complexion is contradictory to the internal acts of the mind, we are ſaid to *diſſemble*.

Acts of diſſembling may be intended for good and allowable ends, and are in ſome caſes neceſſary; as, *feints* and *ſtratagems*. But as many acts of malice are perpetrated under the cloak of honeſty, of friendſhip, &c. it follows, that nothing ſhort of abſolute neceſſity

can

can juſtify diſſembling even for juſtifiable purpoſes: we betray in a manner the ſacred cauſe of virtue, if we are the means of putting it under any kind of ſuſpicion: the man truly virtuous will avoid even the appearance of evil.

Sch.—Allowing that feints and ſtratagems of particular kinds, and to certain extent, may conſiſt with the principles of rectitude, we muſt obſerve, that there are ſeldom ſituations in life which can equally juſtify acts of diſſembling. From an enemy we expect nothing but acts and deſigns of hoſtility; as we may place no confidence in him, he cannot betray it. We may therefore draw this concluſion, that acts of diſſembling are not of an innocent, but of a malignant nature, whereby confidence, for which we have given occaſion, is diſappointed and betrayed.

An act of diſſimulation, with deſign to betray confidence, ſtill heightens the wickedneſs of a malicious action; for there is a new determination of the will, conſequently more motives, more knowledge, beſides the more pernicious effect and the greater danger to which it expoſes. An act ſo conducted may be called an act of *clandeſtine malice.*

Sch.—There is a great difference between murder and aſſaſſination; between the taking away one's life by a weapon or by poiſon, &c.

There is alſo a difference between the open attack upon a perſon's reputation, and the clandeſtine aſſaſſination of his character.

The action wittingly and willingly done contrary to law and to obligation, is of *direct maliciouſneſs:* there is a poſſibility for an action which has been done culpably to become malicious, by approving and juſtifying it, and glorying in its effects. Such actions we call acts of *indirect malice.*

Sch.—We may inadvertently hurt a perſon, and ſignify our regret; or we may rejoice and ſhew delight in the effect.

In the former caſe the action at moſt renders the agent culpable; but in the latter he ſtamps his will and approbation upon it, after which the action becomes wilful and malicious.

By *fortune* and *misfortune* we underſtand an unforeſeen concurrence of cauſes, which have a *favourable* or an *unfavourable* influence on our happineſs.

By *accidents* we underſtand the effects of unforeſeen cauſes.

Fortune and misfortune, and accidents, do not admit of any degree of morality or immorality, for ignorance in ſuch caſes is invincible.

Sch.—What a great abuſe is made of the terms misfortune and accidents? How often muſt they unmerited ſtand for the natural effects of want of rectitude? The natural conſequences of folly, inattention, improvidency, precipitancy, careleſſneſs and wickedneſs make up the greateſt part of *accidents* and *misfortunes!* Comparatively few houſes are deſtroyed by lightning; and is it not the caſe with reſpect to other things, as poverty, captivity, &c.?

CHAPTER V.

Of moral imputation.

SINCE actions admit of various degrees of morality and immorality, according to the mode and manner in which they are done or omitted, as well as in conſequence of their effects and the intention of the agent, it follows, that it is impoſſible for us to form a judgement of the proper ſhare of merit or demerit of particular actions, unleſs they are repreſented or conſidered under their individual circumſtances.

Actions

Actions conſidered under individual circumſtances are called *facts* or *caſes*.

The moſt principal circumſtances of facts are their effects and the intention of the agent, for to them all others have reference.

Sch. 1.—The firſt caſe of fratricide is thus recorded: *Cain roſe up againſt Abel his brother, and ſlew him.* If we attend to the effect, we ſhall ſee that it was an act of violence; he *roſe* and *ſlew him*, not accidentally, not in a ſudden phrenzy of the mind, but deliberately, intentionally and maliciouſly. *Cain was wroth, and his countenance fell;* not that Abel gave him cauſe, or provoked his anger; no, Abel's innocence, his virtue was the cauſe; it was, that the Lord had rather reſpect to his than to the murderer's ſacrifice. What an aggravating circumſtance! they were brethren, the firſt of brethren!

Sch. 2.—Seeing an indiſcriminate concourſe of people, our firſt enquiry is concerning what has happened. Being told that a man has drowned, we not only enquire who he is, when the event took place, when and where the body was found; but principally whether the fact has taken place from his or another's intention, or whether it is an accident.

If we give a detail of the circumſtances of a fact, we are ſaid to give a *ſtate* thereof.

Sch. 1.—In ſtating a caſe, every circumſtance, great or ſmall, even the poſture, countenance, and expreſſions of the agent, if any were made, the occaſion, origin, progreſs, manner, mode and time, &c. of the action, ought to be moſt carefully particulariſed, that thereby the intention of the agent may be made fully to appear: for the leaſt of theſe circumſtances omitted or miſrepreſented may give the fact, particularly the intention of the agent, a different, perhaps a moſt unmerited complexion; and our judgment formed upon ſuch an imperfect or miſrepreſented ſtate of the fact, may be erroneous and highly unjuſt.

Sch. 2.—Such imperfect and miſtaken ſtatement of a fact has obtained the name of *error of fact;* and when a declaration is made that ſuch an error has taken place, it is called an *exception to the fact.*

Sch.

Sch. 3.—Witneſſes in judicial proceedings ought to be extremely careful to teſtify concerning all circumſtances of which they have any knowledge, juſt in ſuch a manner as they know them, leſt they render themſelves reſponſible for acts of oppreſſion and injuſtice, as moral or proximate cauſes of them.

Sch. 4.—Falſe repreſentations of facts muſt be conſidered as the principal ſources of the innumerable acts of detraction, calumny and ſlander, ſo deſtructive to the peace and harmony of ſocial intercourſe. How careful ſhould we be neither to originate nor to propagate miſrepreſentations of this kind, or to form a judgment thereon to the injury and detriment of our neighbour!

A fact is ſaid to be *imputed*, if a declaration is made that it is referable to the ſpontaneity or will of a certain agent. As referring actions to the will of a perſon is declaring him the *author* thereof, we may define *imputation of fact* to be the declaration that a certain perſon is its author.

Not only actions, but alſo their conſequences, that is, their merit or demerit, may be referred to the will of their author. A declaration that certain merits belong to a fact, is *imputation of law*; becauſe it is the peculiar province of laws to determine the merits or demerits, the rewards or puniſhments due to actions which come under their cognizance.

Sch.—Imputation of law, whether in judicial proceedings or in common converſation, ſhould therefore be according to the directions of laws and conſiſtent with the degrees of morality or immorality of facts, otherwiſe an *error of law* will be committed. A declaration that ſuch an error has taken place is ſtiled *exception to the law*.

Moral imputation comprehends both imputation of fact and of law, and may be defined a declaration that a certain fact and its conſequences are referable to a certain perſon as the author thereof.

Sch.

Sch. 1.—In moral imputation, therefore, it is not ſo much the queſtion, whether actions have been done or omitted, but principally whether they proceed from the intention of a certain agent.

Sch. 2.—Hence it appears, that no facts can be imputed to perſons who cannot exerciſe underſtanding, reaſon and judgment; for they cannot exerciſe will, nor act from intention.

Sch. 3.—Neither can any other but moral actions be imputed, for they only depend upon the will or intention of agents.

Sch. 4.—Natural actions cannot be imputed farther than they admit of ſpontaneity; that is, only with reſpect to time, place, mode and manner.

Actions referable to the will of an agent will be imputable as far as that will is free.

Sch. 1.—Actions done or omitted under compulſion cannot be imputed to the immediate agent thereof, but muſt be wholly charged to the moral cauſe of that compulſion.

Sch. 2.—Actions done by inſtrumental cauſes, are imputable to thoſe who are the principal cauſes thereof.

Sch. 3.—Actions done by a proximate cauſe are imputable both to the proximate and to the moral cauſe.

Sch. 4.—Actions done by brutes, by infant children, by lunatics and madmen, may be imputable to moral cauſes, as far as they are referable to their will; for inſtance, if we know their miſchievous nature, and do not our beſt to keep them from doing harm.

As actions, with reſpect to the degrees of liberty, have likewiſe their degrees of morality or immorality, we may conclude, that imputability of actions will be in proportion to their degrees of morality and immorality; for both have their foundation in certain degrees of will and intention.

Sch.—If we value a good conſcience, and wiſh the happineſs of preſerving it pure and undefiled, we muſt in all our conduct pay the ſtricteſt attention to the laws of morality, as they are the rule and ſtandard of imputation.

From

From the preceding propoſition it follows, that we may diſtinguiſh facts in perfect ſimilarity to the diſtinctions obſerved in moral actions, and aſſign their proportionate degrees of imputability in the following manner:—

Voluntary facts will be more imputable than the involuntary, the immediate more than the mediate, the intentional more than the unintentional, the deliberate more than the inconſiderate: there is more heinouſneſs and guilt in an unjuſt than in a diſhoneſt fact; and a malicious fact is more criminal than a culpable one, &c.

Sch. 1.—As facts are a ſpecies of moral actions, it is eaſy to conceive, that to determine the imputability of the former, we have only to attend to the morality or immorality of the latter; ſubſtituting imputability for morality or immorality, and fact for action.

All imputation, whether moral, or that of fact or of law, is conducted in the way of ſyllogiſtic argumentation.

Sch. 1.—For inſtance: imputation of fact may be conceived to proceed in this form:

To whoſe will the exiſtence or non-exiſtence of the fact B is referable, he is the author thereof.	He who maliciouſly has killed Clodius, has committed murder.
It is to the will of A that the fact B is referable; therefore A is the author of fact B.	Milo has maliciouſly killed Clodius; therefore Milo is guilty of murder.

Sch. 2.—Imputation of law is by this ſyllogiſm:

Whatever fact is of ſuch a particular nature, to it belongs ſuch rewards or puniſhments.	Murder deſerves capital puniſhment:
But the fact B is of that particular nature;	The death of Clodius is murder;
Therefore to the fact B belongs ſuch rewards or puniſhments.	Therefore the death of Clodius calls for capital puniſhment.

Sch.

Sch. 3.—Moral imputation comprehends both imputation of fact and law, and is in this form:

Whoever is the author of fact M, to him belongs the punishment D;	Whoever has committed the murder of Clodius, he is to be punished with death.
Milo is the author of fact M;	Milo has committed the murder of Clodius;
Therefore Milo deserves the punishment D.	Therefore Milo must be punished with death.

Imputation may be true, false or dubious: for syllogistic argumentation may be one or the other, or it may depend upon premises, from which only a probable conclusion may flow.

If the fact be not true or certain, imputation cannot be the one or the other; for if one of the premises be destitute of the criterions of truth and certainty, the conclusion must be defective accordingly.

Sch. 1.—Suppose a trinket be missing, and no person known to have been in the room in which it was kept but a servant of the house, is it not probable that the servant has taken it away? An imputation upon these probable circumstances is dubious, for the trinket may be mislaid or taken away by another.

Sch. 2.—Imputation may be in a high degree probable, and come near to certainty itself, still it is dubious and may be false, for the greatest probability may be so. Add to the former instance, that the servant is wavering in his apology, that the article is found in a pocket of his coat in the room allotted to him; still another person may have put it there; or if not thus found among his things, the master of the house, who never concerned himself with things of this kind, may have lent it to a neighbour.

Sch. 3.—Suppose the servant confesses the fact, tells where the trinket is; or if witnesses have seen him take, or sell, or hide it away; the imputation will be certain.

Sch. 4.—*Suspicion*, in a certain sense of the term, has reference to probable imputation of facts: when it becomes a pro-

penſity or a paſſion of the mind, it is a moſt diſagreeable ſource of laſting inquietude to the heart in which it dwells; beſides, it is a mortal enemy to peace and harmony, the greateſt bleſſings of families, of human intercourſe, and all ſocial connections; it deſtroys character, wounds reputation: actions the moſt innocent are conſtrued into evil deſigns: it traduces the cauſe of truth, of virtue, of God and man.

Neither is imputation true, if merits or demerits are imputed which do not belong or are diſproportionate to facts.

Sch. 1.—Human legiſlators, therefore, ought to eſtabliſh in the ſanctions of their laws proper gradations of rewards and puniſhments, adapted to the reſpective degrees of morality or immorality in actions; for how can imputation be true, if its foundation is defective or falſe?

Sch. 2.—In forming our judgments concerning the conduct of men, whether they are our ſuperiors, equals or inferiors, we ſhould never loſe ſight of this neceſſary criterion of true imputation; for how can we avoid ſcandalous flattery, envy, detraction, inſolence and ſeverity, if we pay not attention to the rules of rectitude, to the degrees of morality or immorality in actions? We muſt make a difference between riches, power, connections, and between true greatneſs and real goodneſs. We muſt eſteem men by their virtue, humanity, prudence and induſtry: not by appearances nor paſſion, not by the prevalent opinions of mankind; but truth muſt be our guide, where juſtice and a good conſcience are the object.

Sch. 3.—If an innocent man ſhould ſuffer public puniſhment, and the guilty be rewarded, would it not be deemed an act of moſt horrid cruelty and injuſtice? Can we therefore be innocent, if we deſpiſe or diſeſteem a good man becauſe he is poor, has no connections, no great expectations; and applaud the noiſy, turbulent, extravagant and wicked man, becauſe he is rich, &c.?

As partiality and reſpect of perſon find no place before God, ſo they ſhould find none in courts of juſtice. It would be a great happineſs to mankind if they were entirely baniſhed from ſociety.

He

He upon whom imputation of fact depends is the *accuſer*; and the perſon who imputes law exerciſes the office of a *judge*.

No accuſation can be juſt and unexceptionable, except the fact be cognizable, true and certain.

Sch.—Information is a kind of accuſation.

Falſe accuſation may be culpable or malicious.

Moral imputation cannot be juſt where imputation of fact is unfair or unjuſt; for the author of the fact not being aſcertained, the merits or demerits of actions cannot be referred to the intention of an agent.

Neither can moral imputation be juſt, if the proper merits and demerits which belong to facts, and their authors, are not aſſigned.

Sch. 1.—As laws are to determine the merits and demerits of actions, it is evident, that no juſt imputations can be founded thereon, except they be juſt and wiſely inſtituted.

Sch. 2.—No people can be happy without a wiſe and juſt adminiſtration of laws.

Hence it appears, that the judge muſt underſtand and be able to interpret laws; that he muſt have full and ſufficient information of facts; that he be careful that evidences be examined, their teſtimonies compared and ſcrutinized according to the neceſſary criteria of truth, otherwiſe he may become culpable: if any thing is omitted with deſign, he is guilty of malicious partiality and injuſtice.

By *relative equity* we underſtand a ſtrict obſervance of the various circumſtances of facts, which may ſerve to mitigate or aggravate their guilt, or to determine the degrees of commendation in actions done conformably to laws; for human laws cannot provide for all poſſible caſes, and facts of the ſame kind may aſſume different complexions

complexions under different circumſtances, and be more or leſs referable to the intention of the agent. But as this ought to be the principal conſideration in imputation, it follows, that in juſt imputation relative equity is to be obſerved.

Sch.—On this account the laws of the land very wiſely leave power in the executive part of the government, to ſuſpend, remit, or to mitigate puniſhments in certain caſes.

Juſtice is another requiſite in imputation; for, as by its general definition it is a habit of doing juſt actions, there cannot be a better place for its exerciſe than where we have to determine merits or demerits according to the eternal laws of juſtice and of equity. The idea of juſtice being more ſpecifically confined to perfect laws defining the perfect rights of men, which require that we give every one his due, is more generally known by the definition, *that it is that virtue by which we give every one his due.* Thus juſtice commands, that good men be rewarded and evil doers puniſhed.

Sch. 1.—Though both theſe definitions be true, and the latter moſt generally adopted, ſtill it muſt be confeſſed, that our ideas of that virtue are ſuch that we cannot ſee its lovelineſs and the benignity of its nature ſo eaſily as we do of other virtues, which in God are infinite and unſpotted attributes of his eſſence, and in man the higheſt degree of excellency and perfection. Juſtice, with reſpect to our ſenſibility, has the appearance of ſeverity, nay, is often taken by mankind for ſeverity itſelf. Hence it is, that tender minds cannot reconcile infinite inflexible juſtice in God with his infinite love and mercy. But there is no ſuch unfriendly ingredient in divine juſtice, nor in juſtice that is to be adminiſtered by men. The conſciouſneſs of our guilt before God muſt be aſſigned as one of the cauſes of our miſapprehenſions with reſpect to this his unſpotted and infinite attribute; and the frequent examples of ſeverity which we ſee in the exerciſe of juſtice by human authority, are another cauſe why we are very apt to form unfriendly conceptions of its nature.

Sch.

Sch. 2.—It is on this account that we feel a predilection for the definition which ſome writers have given of juſtice, calling it *kindneſs adminiſtered according to the law of wiſdom.* This definition fully anſwers the idea of juſtice, and is very well calculated to remove falſe impreſſions from our minds, and to obviate every unfavourable conſtruction. It leads us immediately into a ſenſe, as it were, of the benign nature of divine juſtice, and the neceſſary and beneficial influence of this virtue on the general happineſs of mankind. It is ſo far from ſeverity, that it is kindneſs itſelf.

Sch. 3.—*Kindneſs*, a promptitude to render others happy, being in God the natural effect of his infinite love to his creatures, is the eſſential and invariable ſcope of all that comes under the direction of human laws; for they have for their end the general felicity of ſociety. To whom ſhould we look for benignity, for kindneſs, but to God, who is love itſelf, and to thoſe fathers of their country who ſhould in all their purſuits have for their principal aim the happineſs of mankind? Is it a wonder, therefore, that juſtice is a property, an attribute of the divine eſſence, and its adminiſtration a particular prerogative of governments among men?

Sch. 4.—But have we not to look for that benignity in perfect agreement with wiſdom? As by *wiſdom* we underſtand that ſcience which teaches the beſt ends, by the proper uſe of the beſt means for the attainment thereof, the law of wiſdom will direct that kindneſs be not diſpenſed indiſcriminately to offenders as well as to faithful obſervers of law, but in ſuch a manner that thereby the general happineſs of mankind may be obtained. This cannot take place where the laws are not duly obeyed; but obedience is to be incited by rewards, and by puniſhments inflicted upon the diſobedient. Therefore, true wiſdom in God and in all governments requires that kindneſs ſhould be extended to all who conduct themſelves conformably to law, and be withdrawn from thoſe who act contrary thereto.

In the exerciſe of juſtice, therefore, we may not confine our conſideration to the puniſhment of the wicked, who have forfeited all claim to kindneſs, but ſhould principally attend to its benign influence on the happineſs of ſociety

ſociety in general. Juſtice requires that the diſorderly and wicked experience the rigour of law; and that the good and the upright may enjoy its protection.

Sch. 5.—Leſt there ſtill remain ſomething in our conceptions concerning the nature of juſtice, leaving it liable to unfavourable conſtructions, it ought to be conſidered, that this is a neceſſary conſequence of the natural imbecility of human adminiſtrations thereof; for from this our ideas of juſtice are commonly formed, and muſt be imperfect, as they furniſh but ſeldom examples of rewards, whilſt, on the contrary, they frequently exhibit puniſhments to public view. Hence it is, that we ſee juſtice but on its dark ſide; not in the full diſplay of its beauty and lovelineſs, but in its pitiable and dreadful effects upon the diſobedient and wicked tranſgreſſors of laws.

We may add, that the human heart, ſo very apt to diſregard bleſſings which we enjoy every day, is very ſeldom properly affected by the rewards which are conſequent upon obedience and ſtrict obſervance of laws. God is juſt; and the day will come when no labour, no pain, no ſuffering, no endeavour to do our duty, will remain unrewarded; and even now his bleſſings are innumerable upon his children; and in the diſpenſations of his providence we often ſee thoſe bleſſings withdrawn from nations, nay, from individual perſons, as the juſt conſequences of their diſobedience and vices, and the particular tokens of his diſpleaſure. How neceſſary, then, that we form our ideas from the adminiſtration of juſtice by divine providence, and the declarations which God has made by revelation, of its full and glorious diſplay that ſhall take place when he will judge the world in righteouſneſs!

And are we not guilty of inconſideration, if even in human adminiſtration we do not ſee the rewards which are a natural conſequence of obedience and a faithful obſervance of laws? Is not the ſecurity of our life, property and rights, which laws afford to faithful obſervers, a great, nay, the beſt, the moſt valuable of all rewards? Is not a good character, and the favour of the virtuous and upright, a great and deſirable good? Add inward peace and tranquillity of mind, the effects of a good conſcience, what more can be expected that the world can give? The reward of virtue exceeds the wiſdom and power of men:

men: it is the prerogative of God. Men, as they cannot ſee what is in man, cannot give virtue its due reward. Since they cannot with preciſion diſcern the virtuous and upright man from the deceitful and the hypocrite, would not falſe pretenders run away with the rewards of virtue, and virtuous modeſty remain neglected? Suppoſe even that the inward principles and ſprings of actions could be known; ſuppoſe that the ſtock of a ſtate be inexhauſtible for rewarding every act of obedience to law; what has the world beſides riches, honours and preferments? Can theſe things be rewards for virtue, which may be acquired without an act of our own, or by acts of fraud and injuſtice, and poſſeſſed by fools, monſters and oppreſſors? The virtuous man, if he poſſeſſes them, can add luſtre to them; they receive deſirableneſs and luſtre by the virtuous poſſeſſor, and the uſe he makes of them.

As long as men of doubtful character enjoy riches, fill offices, or are elevated to high ſtations, ſo long no riches, no honours, no preferments can in themſelves be conſidered as rewards; they cannot add any thing to the internal beauty and excellency of virtue. Virtue is its own reward in this life—an inexhauſtible ſource of bleſſings indeed! If the world preſents you with inſtances which ſeem to render this axiom doubtful, take them for incontrovertible arguments, that there will be another ſtate of exiſtence, where juſtice will be manifeſted in its full glory, and every virtuous act of this life will receive its due reward. God is juſt, infinitely righteous!

The ſcope of the exerciſe of juſtice is, that the laws be obeyed, and the happineſs of mankind promoted and preſerved. Hence it is that it is ſaid to be *diſtributive*; becauſe it diſtributes rewards to the obedient and puniſhments to the diſobedient.

Diſtributive juſtice is therefore diſtinguiſhed into *remunerative* and *punitive*.

Sch.—Some call punitive juſtice *vindictive*, but this term appears to us to be rather inconſiſtent with the general nature of the juſtice of God, and that which ought to be exercieſed by men. How can revenge be conſiſtent with kindneſs?

By

By *ſentence* we underſtand the reſult of moral imputation, declared by him who performs the office of judge, concerning the quantum of imputability in actions, according to the degrees of morality or immorality, and the ſhare of reward or puniſhment due to a certain fact and its author.

Sentence includes a favourable or unfavourable eſtimate of the conduct of the agent; ſuch an eſtimate conſtituting honour and approbation, or blame and diſapprobation, it follows, that honour and blame muſt be conſidered in ſome reſpect as reward or puniſhment.

Sentence is juſt when it reſults from juſt imputation; no ſentence, therefore, will be juſt, where the obſervers of law meet not due honour, and the diſobedient marked blame: where the reverſe takes place, it is certainly falſe and highly criminal.

Sch. 1.—How careful, therefore, ſhould we be to ſet up for judges over the conduct of our brethren, whether they be our ſuperiors, equals or inferiors? How important a taſk is laid upon us, when the cauſe of truth and humanity calls us to the performance of this office, as there is great danger that we may injure both that very cauſe and our fellow creature? Nothing is of a more delicate nature than character. How often, like him who travelled from Jeruſalem to Jericho, is our character wounded and laid proſtrate? How general is the caſe, that not only the prieſt and levite, but the generality of mankind paſs by a wounded character? and how ſeldom is a Samaritan found to heal or to relieve it?

Sch. 2.—But how much more important is this conſideration to all who are concerned in judicial proceedings, the accuſer, judge, witneſſes, jurors, &c. where there is danger even from the imbecility of human nature, that the ſacred cauſe of juſtice may be betrayed or perverted! Beware of partiality, whether of a culpable or a malicious nature. May ſuch proceedings never find place in courts where the ſword of juſtice is unſheathed to execute wrath upon evil doers!

Where

Where ſentence is given according to certain laws, there is a *forum*, a *tribunal*. Laws may be human, natural and divine: the former conſtitute the *human*, theſe the *natural* and *divine* forum, which likewiſe is called the *forum of conſcience*.

Sch.—To the human forum belong only thoſe actions which come under the cognizance of the laws of the land; the natural, the divine, and the forum of conſcience extend to all manner of actions which are of a moral nature.

Imputation before the tribunal of God will be in perfect truth, according to unerring juſtice, and ſentence according to deſerts.

In natural imputation, all the natural conſequences of moral actions will be imputed to the authors of them. No good action will be unrewarded, no evil unpuniſhed.

There is ſuch a thing as *internal* imputation, where the author of a fact imputes to himſelf both actions and their conſequences.

The faculty of the human ſoul, by which we impute to ourſelves actions and their conſequences, is known by the name of *moral conſcience:* conſcience, therefore, performs both the part of an accuſer and the office of a judge.

Sch. 1.—In order more fully to underſtand the nature and great importance of moral conſcience, and the various diſtinctions thereof, intimated by various epithets applied to its acts, it will be neceſſary that we attend to the very foundation from which thoſe acts proceed. This is undoubtedly the *perſonality* of the human ſoul, by which it cannot but be conſcious of itſelf, of all its thoughts and actions: with perſonality is intimately connected the *internal ſenſe*, that, as a rational being, it is under obligations to do what is good and to avoid evil: upon perſonality and this internal ſenſe reſts the act of *judgment* concerning the conformity or contrariety of our actions to our moral obliga-

tion; *reaſon* thence infers the merits or demerits, the rewards or puniſhments which are due to us on account of our obedience or diſobedience, according to the degrees of their morality or immorality.

Sch. 2.—From this analyſis ſeveral general inferences may be drawn:—

1. That no man can loſe conſcience altogether; for, however much he may deſire it, he cannot loſe the perſonality of his ſoul. Hence it is that we read, 'the ungodly have no peace;' and it is inconteſtibly true, that conſcience will exert its power after life.

2. That, as the internal ſenſe of obligation is in connection with the knowledge we have of good or evil, there muſt be a vaſt difference between an *uninformed*, and an *informed* conſcience. An uninformed conſcience is miſled by examples, by ſenſe and paſſion, and judges of things and actions according to appearances: an informed conſcience conſiders the reality of things, and judges of actions according to their conſequences.

Conſcience may be more or leſs informed, and therefore capable of improvements and liable to neglect and abuſes. By improving conſcience we preſerve it *undefiled;* by following bad examples, ſenſe and paſſion, it becomes *defiled.*

The *enlightened* conſcience is the effect of the ſpirit and word of God: an enlightened conſcience duly exerciſed is *pure.*

Sch. 3.—Whatever our information may be, there is ſtill danger, that by inconſideration and inattention to our actions and their conſequences, conſcience may be neglected; that we either form no judgment of our actions and their effects, or that ſuch judgment is partial and falſe. How unaccountable is ſuch a conduct in perſons endowed with underſtanding, reaſon and judgment, not to exerciſe theſe powers, not to make a proper uſe of theſe heavenly gifts? Certainly the inconſiderate Heathen, the diſorderly Jew and Chriſtian, all are equally inexcuſable; not becauſe they have equal advantages, God in his infinite wiſdom has not ſeen fit to grant it; but they are equally guilty of neglecting, abuſing or perverting thoſe gifts which are beſtowed upon them.

Sch.

Sch. 4.—When conſcience does not exerciſe its power as accuſer and judge, the cauſe may be inattention, a ſettled neglect, or evil and vicious habits. In the former caſe conſcience is ſaid to be *aſleep*, in the ſecond it is *callous*, in the third *ſeared*. When the contrary is the caſe, conſcience is *awake*, *tender*, and *vigilant*. Conſcience, with reſpect to imputation of fact, is ſaid to *accuſe* or to *excuſe*; with reſpect to imputation of fact and law, it is *right* or *erroneous*, *certain* or *doubtful*, *approving* or *diſapproving*, *condemning* or *abſolving*, or *wavering*. If conſcience judges in reference to the degrees of morality or immorality, it is *good*, *quiet*, *ſerene*, full of peace and joy; or *bad*, *gnawing*, *gloomy*, *deſponding*, *tormenting*, *full of deſpair*.

Sch. 5.—In the moral as well as in the phyſical world, nothing happens without previous cauſes; conſcience, therefore, can never become callous or ſeared except it be ſuffered to ſleep: neither ſhall we eaſily run the riſk of being miſled by an erroneous conſcience, if we exerciſe our judgment and reaſon, together with the internal ſenſe of our obligations, and do not depend upon examples or conſult ſenſe and paſſions. We ſhall be ſecure againſt deſpondency and deſpair, if we guard againſt a bad conſcience. We may enjoy great peace and joy, if we take care to have a good conſcience before God and before men.

Finally, obſerve that happineſs and miſery in this life do not conſiſt in things external: nor riches, nor honours, nor the poſſeſſion of the earth can make a man happy who has not a good conſcience: no poverty, no perſecution, even death cannot render the man unhappy who does his beſt endeavours to preſerve a conſcience pure and undefiled.

Sch. 6.—It is in our power to awaken conſcience when it falls aſleep; it is therefore in our power to keep it undebauched, tender and vigilant; for attention and reflection are in our power, and we ought to keep them in exerciſe, as rational creatures accountable to God for all we think, ſpeak or do. The day comes, and muſt come, when even the ſeared conſcience will become ſenſible, when it will find no excuſe, no hiding place, but muſt feel unutterable pangs of deſpair, anticipating God's righteouſneſs in judgment.

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As the *conſcientious* man is invariably determined to conduct himſelf conformably to his internal ſenſe of obligation, it follows, that, as ſuch, he maintains in general the character of the internally honeſt and upright man.

However commendable theſe characters may be, ſtill it is neceſſary that in our conduct we attend alſo to other things beſides the internal principle of our mind. For inſtance, may not the upright, the conſcientious man be inattentive to the rules of decency and propriety? may he not form an erroneous idea of the conſequences of actions, or the intention of the agent? may he not, therefore, make a miſtake with reſpect to the particular laws of morality or immorality? In one word, cannot a conſcientious man be miſtaken, or act from an erroneous conſcience?

The conſcientious man, who acts from a right and well informed conſcience, is, therefore, the moſt excellent character, worthy our imitation.

Sch.—What ſhall a man do under a miſtaken or erroneous conſcience? We anſwer, Let him caſt it off as ſoon as he is convinced of that error, but follow it as long as he conceives himſelf right. Suppoſe he ſhould not obſerve the latter, would he not ſin againſt his conſcience? and would he not be apt to do ſo in caſes where his conſcience might be right? Who would truſt that man? A man without conſcience is a monſter!

PART

PART II.

Sect. I. *Comprehending Ethics.*

INTRODUCTION.

BY *ethics* we underſtand that part of moral philoſophy which treats of the duties of man.

Duties are actions to be done or omitted conformably to the directions of moral obligations and laws.

Duties may be diſtinguiſhed into *commiſſive* and *omiſſive*, into *perfect* and *imperfect*; into *duties to God*, *to ourſelves*, and *to others*. The two former diſtinctions have reference to the obligations and laws which enjoin them, the latter has reſpect to their immediate objects.

Commiſſive duties are enjoined by perceptive, the omiſſive by prohibitory laws; as, *love God with all thy heart—do not love ſin.*

Sch. 1.—What has been obſerved with reſpect to the diſtinction of preceptive and prohibitory laws, may in ſome meaſure be applied to this diſtinction of duties: for the commiſſive duties imply omiſſion of all acts inconſiſtent with the performance thereof; and there are commiſſive acts likewiſe neceſſary in omiſſive duties, ſo that both muſt be conſidered as correlate ideas, inſeparable from one another. It is, therefore, only the general and principal character of duties that juſtifies this diſtinction, and the proper uſe we are to make of it is, that we learn at once the great extent of our duties in all the particulars which a faithful performance of them requires. For inſtance, *the love of God* requires, beſides the commiſſion of many things which conſtitute that affirmative duty, that we abſtain

ſtain from all that is inconſiſtent with its performance; not only our whole heart, ſoul, mind and ſtrength is to be engaged in doing what is pleaſing to our God, but we muſt alſo avoid all things which are ſinful and diſpleaſing to him, if we ſincerely deſire to love him. The ſame is the caſe with reſpect to the negative duty, *do no injury:* here we have not only to omit many things which are of an injurious nature, but we have alſo to do all actions conſiſtent with and neceſſary for its performance: we muſt pay our debts, requite ſervices and labour done in our behalf, &c.

Sch. 2.—We may therefore lay down this general maxim reſpecting the performance of duties, that all commiſſive duties imply thoſe omiſſive acts without which their performance cannot take place, and vice verſa.

Perfect duties are enjoined by perfect laws, and reſult from perfect obligations. As the performance of them may be compelled, they are denominated *duties of neceſſity*.

Imperfect duties have reference to imperfect obligations and laws. As no compulſion can take place, they are ſtiled *duties of humanity*, for in performing them we act up to the dignity of human nature.

Sch.—The diviſion of duties in reſpect of laws may be carried to a great length, as laws are of various complexions and denominations: thus civil, religious, family, public and private duties, &c. have reference to civil, religious, family, public and private laws, &c.

Duties to God have for their immediate objects the infinite perfections and will of God.

Duties to ourſelves have for their immediate objects the properties and qualities of our nature, and all that is intereſting to our own ſtate.

Duties to others have for their immediate objects the concerns and intereſts of our fellow creatures.

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It ought to be obſerved, that all duties to ourſelves and to our fellow creatures are in a mediate manner duties to God, for ultimately they have reference to his will and divine perfections. We do his will in rendering ourſelves and others happy; and we ought to be attentive in performing all obligations to ourſelves and others, in order faithfully to diſcharge our duty towards God. All laws ultimately depend upon his will, and our obedience ought to be prompted by motives taken from the divine perfections.

CHAPTER I.

Of our duties to God.

IT is a principal, nay, the firſt duty we owe to God, *that we ſincerely deſire to know him*, for we ought to render our ſtate happy by faithfully obeying the natural laws: this will be the caſe if we conſider them as the laws of God, by taking our motives of obedience principally from the divine perfections: hence it is neceſſary that we know thoſe perfections. By knowing the divine perfections we know God: the firſt principle of nature, therefore, enjoins the duty that we deſire to know God.

Sch.—This duty might be proved from the nature of the ſoul, which can be as little affected by things unknown as by thoſe which do not exiſt: but having eſtabliſhed a firſt principle of morality, it is proper that all duty and right ſhould be deduced therefrom.

Things which may be known of God have either reference to his exiſtence, or to his eſſence, or to his relation to man and other creatures: hence we ought to know,

know, with conviction of ſoul, both that he is, and what he is in and to himſelf and to his rational creatures.

There is a God! God exiſts! This truth, deeply implanted into the human mind, and univerſally acknowledged by all nations, admits of demonſtrative proof in the ſtricteſt ſenſe of the word, and reſts upon principles which cannot be ſhaken; ſo that no manner of room is left for a reaſonable pretext of doubt.

Amongſt the various arguments from which the exiſtence of God may be demonſtrated, we confine ourſelves but to one, which is as irrefragable as it is univerſally obvious: for a rational man will be ſufficiently convinced of the exiſtence of a God, if he can be as certain of that exiſtence as he is of his own.

We are conſcious of ourſelves and of other things without us, conſequently we think. Thoughts of our mind, like other affections or modes, can only be predicated of things which have exiſtence. Our own conſciouſneſs, our own thoughts, therefore, proclaim our exiſtence. Since our conſciouſneſs of other things, which are objects of ſenſe and thought, likewiſe evinces their exiſtence, we draw this general concluſion: We and other things, *i. e.* the world, exiſt.

However, every thing has its cauſe why it is ſo and not otherwiſe; our exiſtence and that of the world muſt conſequently be the effect of a ſufficient cauſe. This cauſe of our own exiſtence and that of the world is either in ourſelves or in the world, or in a being diſtinct from both. Were the former the caſe, we or the world would exiſt neceſſarily; that exiſtence would be eternal and immutable; for what is neceſſary cannot be otherwiſe, and conſequently can undergo no change, cannot begin,

begin, cannot ceaſe to be. Therefore, as we are changeable, beginning and ceaſing to exiſt, and as the whole world, in all things of which we have knowledge, is contingent and variable, it evidently follows, that our exiſtence and that of the world are the effect of a cauſe without ourſelves and without the world; the effect of a cauſe which exiſts of itſelf, eternally, immutably, and invariably, and is the firſt cauſe of all things that exiſt. This firſt cauſe is called God: our own exiſtence, therefore, and that of the world, proclaim the truth, there is a God.

A God of eternal and immutable exiſtence, and the firſt cauſe of all things, muſt in himſelf poſſeſs all poſſible perfections; for his immutability admits of no augmentation, nor of any diminution. A being poſſeſſed of all poſſible perfections is called *infinite*; God, therefore, is infinite.

God is a being of a *ſimple*, *inviſible*, *incomprehenſible* nature; for compoſition of parts, which implies both limitation and mutation, cannot take place in a being which is infinite, neceſſary, and immutable.

God, the great firſt cauſe, who has ordered all things in wiſdom, muſt be poſſeſſed of underſtanding and will; but as theſe are properties and attributes of ſpirits, it follows, that God is a ſpirit.

God is not only a ſpirit ſimilar to the ſoul of man and other celeſtial, inviſible, intelligent beings, but he is eſſentially different from all ſpirits, whatever their exalted perfections may be: theſe, like our ſouls, are finite beings, creatures of his power: he, the creator, is the only *infinite ſpirit*; becauſe his underſtanding and will, like all the glorious perfections of his eſſence, are infinite.

Hence it follows, that in reſpect of the divine eſſence there is *but one God*, for there can be but one infinite being.

Sch. 1.—If we ſuppoſe two or more infinite beings, they muſt either be equal or unequal in perfections. But beings of equal perfections and power could oppoſe and reſiſt each other; neither of them, therefore, would poſſeſs all poſſible perfections, that is, neither of them would be infinite.

If they poſſeſs unequal perfections, certainly that being which is inferior to the other cannot be infinite.

Sch. 2.—Nature, therefore, perfectly agrees with divine revelation, which moſt ſtrenuouſly inculcates the unity of the divine eſſence: but no argument can be drawn from this unity of eſſence againſt a plurality of perſons.

Sch. 3.—Among the infinite perfections in God, which flow from his neceſſary exiſtence and from his ſpiritual nature, the following may be principally noted: his neceſſary exiſtence, eternity, immutability, independence, ſpirituality, infinity, all-ſufficiency, omniſcience, omnipreſence, wiſdom, omnipotence, faithfulneſs, goodneſs, juſtice, holineſs.

Superſtition and atheiſm are high offences, militating againſt this our firſt duty, by which we are bound to endeavour to know the exiſtence, the infinity and ſpiritual nature of God.

By *ſuperſtition* we underſtand that fatal error whereby falſe conceptions are formed of the pure and infinite perfections of the deity, or falſe inferences drawn from his true perfections, ſo that they are made motives for and principles of actions.

Sch. 1.—Superſtition likewiſe attributes to creatures things which only infinite power can effect; but this and other kinds of ſuperſtition come under our definition; for all of them imply a denial of his omniſcient care, all-ſufficient power and infinitely wiſe government.

Sch. 2.—Were ſuperſtition a leſs active principle than it really is, there would be rather cauſe to pity than to deteſt perſons

ſons tainted with it. But who does not feel horror in revolving in his mind the ſcenes of bloodſhed, of devaſtation and human miſery which perſecuting ſuperſtition has ſpread over the world? Who does not know that every kind of ſuperſtition is of that perſecuting nature in one degree or another?

Falſe conceptions of the infinite perfections of God may lead into a wanton denial of his exiſtence. This unnatural offence is known by the name of *atheiſm*.

Sch. 1.—That perſon would be guilty of *theoretical atheiſm*, who in expreſs terms ſhould ſay, there is no God. It may be queſtioned, whether man has ever advanced ſo far in inſanity and folly.

Sch. 2.—But it is not ſo with reſpect to *practical atheiſm*, of which thoſe are guilty who live as if there were no God, or, to ſpeak in terms which have already been defined, who do not take motives from the divine perfections. Men who are deaf to the call of reaſon, callous and inſenſible to the voice of conſcience, and commonly given to every evil, may acknowledge the exiſtence of a God, but in works will reject and deny him.

What ſhall we ſay of *deiſm*, which is ſplit into various ſects? Thoſe who believe not divine revelation and the myſteries of ſalvation, becauſe they never enjoyed the great privilege of living under the goſpel, we conſider as objects of our ſympathy and humanity: thoſe who reject theſe advantages we leave reſponſible for inconſiſtent conduct and itch after novelty before the tribunal of God. But that ſect which holds to the exiſtence of a God, and denies his providence, we here deſignate by that name, and charge its adherents with the moſt fooliſh ſuperſtition that has ever degraded human nature. God ſhould have created, his power ſhould ſupport all things, and ſhould not care for them? he, the father of the univerſe, the father of mankind, ſhould be too great, too high to regard the world and

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the conduct of the children of men? Deſpotic error! God ſhould be too great, too high to be wiſe and good! Nature recoils at the thought; and that man muſt certainly have gone far in wickedneſs who can ſay in his heart, there is no God, or, which is the ſame, God does not ſuperintend and govern the univerſe. Can there be any perfection wanting in him who is infinite? Could he be infinite, could he be God, if he were wanting in goodneſs and care? To him nothing is too little, becauſe nothing is too great.

How nearly, then, are the offences allied, which are levelled againſt the true knowledge of God? How difficult is it to determine which is the greateſt folly, whether to ſay there is no God, to live without God, or to aſſert that he who has formed the ear does not hear, he who has made the eye does not ſee?

All theſe abſurd errors, with other ſtrange notions attending them, are high offences; for they militate againſt the laws of nature and nature's God. All, therefore, who give way to or continue in any of them muſt render themſelves unhappy and miſerable.

What a great value, therefore, ought we to ſet upon that wiſdom which is after God? and how thankful ſhould we be for the means ſo abundantly given us to attain to a true knowledge of his exiſtence and infinite perfections?

As an aſſemblage of perfections conſtitutes *glory*, and as by *majeſty* is intimated the ſupreme power of government; and as theſe in God are infinite, it follows, that he is in and to himſelf a ſpirit of infinite glory and majeſty.

It is our duty to God to *glorify him*, by taking motives for our conduct from his infinite perfections.

Sch.

Sch.—God's glory being infinite, it follows, that by glorifying him we cannot add to it; neither can it be diminiſhed by a contrary conduct. He does not ſtand in need of any thing his creatures can do. How, then, can it be ſaid, that we glorify God? We anſwer, in manifeſting his glory to our fellow creatures; for, by acting from motives taken from the divine perfections, others may be led to trace theſe motives, and thus feel an incitement to endeavour to know God, to ſerve him in ſpirit and in truth, and to be ſenſible of his infinite glory and majeſty.

Blaſphemy is the unnatural and horrid crime of uſing words which attribute imperfections to God.

Sch.—Prophane ſwearing, ſpeaking of God in a looſe and irreverent manner, taking his name in vain, &c. if they do not amount to blaſphemy, are ſtill a kind of that horrid offence.

God of infinite glory and majeſty is, with reſpect to us and all creatures, a being of infinite ſuperiority in right of government and controul. As the inward ſenſe of another's ſuperiority is ſtiled *reverence*, it follows, that we muſt think of God with the greateſt humility and reverence.

As by the *worſhip of God* is underſtood a proclivity of the mind to ſhow our reverence to his infinite glory and majeſty, it is evidently our duty to worſhip him.

In the worſhip of God two things may be diſtinguiſhed; the internal ſenſe of the divine glory and majeſty, and the actions by which that ſenſe is manifeſted: in the firſt caſe our worſhip is *theoretical*, in the laſt *practical*.

Practical worſhip is *internal*, when the ſenſe of reverence actuates the internal acts of the mind; and it becomes *external*, if theſe are outwardly expreſſed by words and actions.

Worſhip

Worſhip may be *true* or *falſe*; for things of the holieſt nature may be perverted by abuſe.

If our worſhip is true, our theory of the exiſtence, perfections, infinite glory and majeſty of God, muſt be true; that is, we muſt have a true, and, as far as poſſible, a diſtinct knowledge thereof: for only diſtinct knowledge convinces the heart; and if conviction is rooted in the ſoul, we cannot but be ſtruck with awe and reverence for that God in whom we live, move, and have our being. We muſt feel delight in holy meditation on his bountiful goodneſs—feel pure deſire for his favour and communion: outward actions, words of our lips, prayers, ſupplications, praiſes and thankſgivings will be the willing, the natural effects of the fulneſs of our heart. Our whole conduct in life ſhould be a kind of divine worſhip; all our actions ſhould ſhow that our heart is inwardly ſenſible how exalted, how glorious, how bleſſed is the Lord of hoſts; how worthy to be reverenced and praiſed!

Worſhip founded on a falſe theory cannot be true in practice.

Divine worſhip paid to what is not the true God, is *idolatry*.

If the theory is founded in erroneous conceptions of the perfections and glory of God, worſhip cannot but be *ſuperſtitious*.

Worſhip may be true in theory, and ſtill falſe in practice.

Internal and external worſhip may be ſeparated; for the mind can and ought to be ſenſible of the preſence of God and his infinite perfections, whilſt we are occupied in the external duties of our calling.

Sch.

Sch. 1.—If ſeparation of internal and external worſhip is carried farther, we become guilty of perverſion, and act contrary to a great, a glorious and neceſſary duty. What is, for inſtance, external worſhip without the internal; what are the praiſes of the lips with a heart eſtranged from God, but hypocriſy, ſhameful in the eyes of men and abominable in the ſight of God?

Sch. 2.—Neither can internal worſhip, always ſeparated from external, maintain the character of true worſhip; for in the firſt place it is our duty to glorify God, that is, to ſhow by our external actions the inward acts of the mind, and thereby incite our fellow creatures to praiſe, to glorify and to fear the Lord their God. There is between the body and the ſoul an indiſſoluble connection, by which the fulneſs of the heart muſt actuate our body as neceſſarily as the external experiences by our ſenſes muſt actuate the mind.

Sch. 3.—A certain portion of time ought, therefore, to be ſet apart for the exerciſe of external worſhip, when the whole man, all that is within us, all our powers of ſoul and body, ought to be engaged in contemplating the infinite glory of God, meditating on his love and goodneſs, and ſhowing forth his praiſes.

Sch. 4.—If we thus exerciſe the duties of internal and external worſhip jointly, we are ſaid to *worſhip God in ſpirit and in truth.*

Worſhip of God is *public* or *private*; in the former we join a number of our fellow creatures; in the latter only our houſhold is engaged.

Neglecting or treating ſlightly the worſhip of God are offences unpardonable in themſelves and of a pernicious tendency; for in the firſt caſe one of the moſt excellent and heavenly duties is neglected, and in the latter things of the moſt glorious nature are prophaned and abuſed.

Sch.—Divine worſhip, therefore, whether public or private, ought to be conducted with ſincere and humble devotion, equally remote from cold and indifferent formality, and from excentrical and unnatural enthuſiaſm.

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The more we learn to know God and meditate upon his infinite perfections, the more ſenſible we become of the great imperfection of our theory. Our worſhip, therefore, in this life, is at beſt but imperfect.

Worſhip is conſequently ſuſceptible of various degrees of purity and perfection.

Hence it is, that from imperfections obſerved in various modes of worſhip, we ought not immediately to judge them falſe.

God, conſidered in his ways towards the children of men, is an object of the pureſt love, of filial fear, of our cordial gratitude, of the ſincereſt and moſt humble invocation and adoration, of the moſt faithful obedience and the moſt reſigned acquieſcence in his will.

There is not a duty more comprehenſive than love, whether its object be God, or we ourſelves, or our fellow creature: it involves all other poſſible duties, and thence is very juſtly ſtiled *the fulfilling of the law*. This is the cauſe why its general definition is difficult, and its diſtinguiſhing characters many and various. We venture to aſſert, that its general idea is *animating affection concerning happineſs, cauſing delight wherever excellency and happineſs are found, and deſire for them where they are wanting*.

Love is generally diſtinguiſhed into *love of affection*, *love of complacency*, and *love of communion*.

Sch. 1.—Love of affection conſiſts in a ſolicitude for the happineſs of ourſelves or others. This love God manifeſts in his providence towards the world, and particularly towards the children of men; the good and the bad, the righteous and the unrighteous, things animate and inanimate, being equally its objects. This love we ſhould alſo feel and exerciſe towards all men, and extend it to all creatures endued with animal life: nothing ſhould blunt its

its ſenſibility and effects: all men, the juſt and the upright, the friend, the obedient child, the faithful ſervant and the well-diſpoſed neighbour, as well as the unjuſt and the diſhoneſt, the enemy, the refractory ſon, the unfaithful ſervant and the ill-natured neighbour, have a claim to it. It is true, we have it not always in our power to render others happy; ſome refuſe our good offices, others abuſe them: we muſt often ſee perſons unhappy; but we may uſe our endeavours to bring them to a ſenſe of their duty; we may pity the ſtate of the diſorderly and refractory, and ſincerely wiſh for their reform and happineſs. Why is it that the father cannot bear the ſight of a profligate ſon? Why is the ſenſe of reſentment in a brother ſo keen againſt a diſorderly brother? Why is diſguſt among relatives ſo deeply rooted? Why do we feel our hearts troubled at the ſight of improper behaviour in youth entruſted to our care? It is love in the father; his heart could not feel ſo ſorely wounded if he could caſt off parental affection, if he could look upon his ſon as a ſtranger. So it is with brethren, relatives, neighbours, &c. So it is with faithful teachers; could they caſt off the ſenſe of their duty, could they diveſt themſelves of that affection for their truſt which duty impoſes and humanity and religion improve, they could render their ſituation very eaſy, they would not feel ſo many of their laborious hours embittered with the reflection that their endeavours are not crowned with the wiſhed-for ſucceſs.

Sch. 2.—It is not thus with *the love of complacency:* this, if it is true, has for its object all that is lovely and excellent, every thing wherein there is perfection, or that is influential on our happineſs. As real good is only an object of delight, we feel true love of complacency only in what is good. Thus God loves his children, being pleaſed with their ways; thus the father delights in his obedient ſon, the brother in his virtuous relation; thus we feel ſatisfaction in the diligent, the manly, the virtuous and regular ſtudent; thus we are pleaſed with excellent and beautiful objects, with what is decent and right. Perſons of a contrary character, things of dangerous and pernicious qualities, diſpleaſe, diſguſt, and often diſtreſs us.

Sch. 3.—The love of complacency begets, as far as is attainable, the love of communion. God, who delights in his

children, dwells in their hearts: the father feels happy in the converſation of his dutiful ſon, and fixes his favour upon him: brethren live in harmony and communion, endeavouring to prevent one another's wiſhes: we rejoice in opportunities to ſhow our eſteem to the diligent, the virtuous ſtudent, &c.

What we cannot attain to is an object of eſteem, contemplation, &c.

Sch. 4.—We ought to diſtinguiſh this heavenly virtue juſt now explained, which has for its object real good, real excellency and happineſs, from that paſſion of the mind which is likewiſe ſtiled love, and is in conſequence of objects repreſented by the inferior faculties of the human ſoul as excellent, deſirable and lovely. This love, though not in itſelf a virtue, if it is well directed and under the controul of reaſon, paves the way to a more exalted and virtuous love. Innocent ſenſitive love has for its object innocent ſenſitive pleaſures, in a degree becoming rational creatures deſtined for laſting felicity. If our habits are thus directed, will they not more eagerly purſue real, laſting pleaſures and true felicity, and lead to all that is good and virtuous? But not all ſenſitive love is innocent; it often leads to vanities and ſinful objects: if the love of the world and its luſts occupies the heart, there is no room for virtuous love; love fixed upon ſuch things is perverted. You may innocently prefer one diſh before another; ſo you may without guilt prefer the innocent converſation of one perſon to that of another, &c. But you cannot be innocent in loving idleneſs, miſchief, empty and tempting amuſements, bad company, exceſſes, &c. The tendency and effects of ſuch love are unhappineſs and ruin. Such a love is degrading to human nature, and inconſiſtent with the love of God.

God is the moſt excellent, and therefore above all things the moſt worthy object of our love; he is the ſource of all beatitude, the cauſe of our exiſtence; he is our preſerver, our benefactor, and benign father: his perfections, infinitely glorious, ſhine with unſpotted purity and holineſs. But how ſhall, how can we love him who is ſo infinitely exalted above all things his creatures

creatures can do? We anſwer, by a *ſolicitude to do nothing that is inconſiſtent with his glory and infinite perfections.*

Sch.—We prefer this definition to others, becauſe it gives us a moſt particular and infallible criterion of our love to God. It is true, the love of God comprehends the ſum of all that can be a duty to him; he who loves him ſincerely will contemplate his perfections with delight, and deſire his favour and communion above all things: but can I perſuade myſelf that divine love dwells in me, if I am not deſirous and highly ſolicitous ſo to order my conduct that it may be pleaſing to him and conſiſtent with his glory? In vain, then, do perſons flatter themſelves that they love God, if they love ſin, the world, with its vanities and luſts, and if their deeds counteract the divine will. *This is love to God*, ſays an apoſtle, *that we keep his commandments, and his commandments are not grievous.*

It is a duty that we love God; for it is our duty to know him, to know that he is, and what he is in and to himſelf and to his rational creatures: a God of infinite glory and majeſty, worthy to be worſhipped in ſpirit and in truth; the creator, the preſerver, the ſupreme ruler of the univerſe! Can it be ſaid that we know him, if his infinite glory does not ſtrike our ſouls with admiration and awe? Can the ſoul be filled with true admiration, if it be not enraptured and drawn towards him with delight? And muſt not delight in God impreſs us with a longing deſire for his favour and holy communion? Can our deſires after God be ſincere, if we are not actuated by an anxious ſolicitude to pleaſe him? Can we pleaſe him, if we act inconſiſtent with his glory and perfections? As love to God is our indiſpenſible duty, ſo it is our glorious privilege, and conſtitutes our greateſt happineſs.

Among the divine perfections is his will: a ſolicitude of the mind not to act contrary to the will of another has obtained the name of *fear.*

Sch.

Sch. 1.—Fear is diſtinguiſhed into *filial* and *ſervile*; the former is a ſolicitude not to act contrary to the will of another, becauſe we love, eſteem and reverence him; the latter takes place when that ſolicitude ariſes from a dread of evil conſequences.

Sch. 2.—A perſon actuated by ſervile fear loves himſelf and hates the one he fears; for looking to the bad conſequences he feels an averſion, and a ſtrong degree of averſion is hatred.

Sch. 3.—Only filial fear can, therefore, be a virtue; ſervile fear is, on the contrary, of a vicious quality, and carefully to be avoided in our conduct towards God and man.

Sch. 4.—Hence the ſaying, *ſervile fear is better than none at all*, cannot be conſtrued as attributing to it any degree of excellency or rectitude; but muſt be taken in reference to its unmerited effects upon the peace and tranquillity of ſociety. As lions and tygers are reſtrained from evil, ſo men of vicious diſpoſitions and habits muſt be kept in awe by compulſive means, often by confinement and corporal puniſhment, that public good may ſuſtain no harm.

Sch. 5.—From theſe obſervations we may draw another argument for proving the imbecility of human laws and the uſefulneſs and neceſſity of religion.

It is a duty that we fear God in a filial manner; for he is worthy of our love, and without fearing we cannot love him.

It is alſo a duty that we endeavour in our conduct towards God to caſt away ſervile fear; becauſe love to God and ſervile fear cannot exiſt together.

Sch.—Hence the neceſſity of the utmoſt care in the management of families, to inſtill into the minds of children and of ſervants the principles of filial fear, in order to ſecure their obedience and faithfulneſs.

As love to a benefactor is ſtiled *gratitude*, it follows, that it is our duty to be grateful to God; for he is not only the object of our ſincereſt love, but his benefits and bleſſings are innumerable. Every bleſſing is a new, an additional motive for us to love him, and to

pay

pay him the duty of gratitude. Praiſes and thankſgivings being the effuſions of a grateful heart, let them be the tribute which our hearts rejoice to bring before the footſtool of our God.

Can there be a more monſtrous, heinous and unnatural vice, than ingratitude to God?

Sch.—All are guilty of that vice who do not love God, who do not reflect upon his merciful bleſſings, and who care not to uſe them to his glory and the end for which they are given. Thoſe who envy others, and murmur againſt the ways of providence; thoſe who look down with a proud and unfeeling heart upon human diſtreſs, and ſuffer it on their part to continue unrelieved, &c. are guilty of ingratitude. But unnatural as this vice is, ſtill it is prevalent among the children of men, not only with reſpect to their conduct to one another, but alſo to that God in whom they live, move and have being.

As a proclivity of the mind to do what another commands is called *obedience*, it follows, that we muſt obey God; for we are bound to obey the natural laws, which are the commands of his will; we ought to fear and love him. No human authority can free us from this duty; and in caſes of real colliſion, we muſt obey God rather than man.

When we are actuated in our obedience by no other conſideration than the will of the commander, we are ſaid *to acquieſce in that will*, or *to be reſigned to it*. Since God is a being of infinite glory, majeſty, wiſdom, power and goodneſs, it is our duty to feel ourſelves happy in doing his will, and to be fully reſigned to all the ways of his government and providence. He is omnipotent, therefore our reluctance would be vain; and as his will is our happineſs, diſcontent and murmuring cannot but be fooliſh and ſinful.

Sch.

Sch.—Reſignation arms the mind with fortitude under adverſity, poverty, ſickneſs and perſecution; inward peace and conſolation are its faithful attendants; it triumphs over death.

CHAPTER II.

Of duties to ourſelves.

AS the duties we owe to ourſelves reſult from the ſame principles of natural law from which our duties to God are inferred, it follows, that the former muſt be in perfect conſiſtency with the latter; for both ultimately flow from one ſource, to wit, the will of God, and have one and the ſame end for their object, the happineſs of mankind. They conſequently are of the ſame authority and importance, excepting the difference of their immediate objects. Duties to ourſelves are therefore in a mediate manner duties which we owe to God.

Hence we may infer theſe infallible axioms: *Nothing can be a duty to ourſelves that is repugnant to the duties we owe to God: What is repugnant to a duty we owe to ourſelves cannot be a duty to God.*

Natural laws, commanding us to render our ſtate perfect as poſſible, require that we principally endeavour to promote our own happineſs. But as ſuch an endeavour is called *love*, it follows, that it is a principal, nay, our firſt duty to love ourſelves.

If we are bound to love ourſelves, we muſt conduct ourſelves in all our purſuits conformably to the injunctions and prohibitions of the law of nature; for a contrary conduct is repugnant to our real happineſs.

Sch.

Sch.—How groſſly miſtaken, therefore, are thoſe perſons who, from a vain and erroneous perſuaſion that they love themſelves, run into all manner of exceſſes, ſeeking pleaſure and ſatisfaction in vanities and wicked purſuits? Strangers to virtuous love, they take ſenſe and paſſion for their guide, never conſulting their true intereſt and happineſs. Such perſons are their own enemies, as in reality they hate themſelves.

As a ſtate of perfection and real happineſs cauſes *true pleaſure*, it follows, that true love only leads to real pleaſure and ſatisfaction.

As real pleaſure depends upon many things as means neceſſary for its acquiſition and preſervation, it will be our duty to endeavour to obtain and to make a proper uſe of all thoſe things which contribute to our real happineſs.

There can be no real pleaſure and happineſs where there is not inward peace, tranquillity of mind and a good conſcience; he, therefore, who truly loves himſelf, muſt endeavour, by an irreproachable conduct before God and men, to poſſeſs and to preſerve this deſirable treaſure.

Thus our true intereſt is our principal duty, and as theſe in their nature and tendency are things inſeparably connected, it is one of our moſt important duties to learn our real *intereſt*.

Sch. 1.—To ſeek our intereſt in things which gratify the ſenſe, pleaſe the fancy, and flatter our paſſions, which inflame pride, invite ambition, avarice and luſts, is and has at all times been the fatal ſource of folly, extravagance and miſery among the children of men.

Sch. 2.—It is from want of attention and reflection that ſuch empty things have ſo forcible and ſo general an influence on the human heart. Evil habits are contracted before we exerciſe reaſon: bad examples, with which the world abounds, ſteel the ſoul againſt the voice of underſtanding.

Hence

Hence it is that the road to virtue is difficult, and that thouſands run headlong to deſtruction: not becauſe they wiſh not, but becauſe they neglect to know their happineſs.

True love to ourſelves is therefore an arduous, comprehenſive and complicated duty; for, independent of all our duties to God and to our fellow creatures, with which it is indiſſolubly connected, it comprehends the perfections of the ſoul and body, together with their internal ſtates, beſides innumerable other things influential on their happineſs and neceſſary for the perfection of our nature.

In loving ourſelves, our firſt care ſhould be to render our immortal ſoul as perfect as poſſible, by duly exerciſing and improving its faculties, particularly the ſuperior, our underſtanding and will: by theſe we rank with ſpirits, and reſemble God the father of ſpirits.

We are therefore in duty bound to render our underſtanding as perfect as poſſible, by endeavouring to obtain knowledge of all things influential on our happineſs; in particular to know God, his infinite perfections, and our duties to this glorious being; to know ourſelves, and the end of our being; to know the human heart; to know mankind; to know our duties to others, together with the right and beſt mode of performing them; to inveſtigate the nature, the qualities and deſtination of as many things of this world as poſſible; to know what is good or bad, right or wrong, what is neceſſary and uſeful in life, &c.

But whatever we know or can know, let it remain a particular care that our knowledge be as diſtinct as poſſible, that it be free from confuſion and error, that we may diſtinguiſh good from bad, right from wrong, things

things of great uſefulneſs from thoſe which have an influence leſs beneficial, and from ſuch as are dangerous, ſinful, improper or wicked. How earneſtly, then, ſhould we attend, how indefatigably reflect upon all things which preſent themſelves as objects of knowledge? And how eager ſhould we be to find out, to ſee by the eye of underſtanding the more exalted and glorious things to which ſenſe cannot aſpire? It is proper that a ſpirit immortal, deſtined for eternity, ſhould make itſelf acquainted with the things of eternity, inviſible and full of glory.

The duty, therefore, which we owe to our underſtanding, may be comprehended in theſe few words: Endeavour to acquire knowledge of all things which may have influence on your duties and happineſs, and do all in your power that your knowledge be as diſtinct as poſſible; for we may be ſaid only to know that which we know without error and confuſion.

Sch.—Obſerve, that we ſeldom find men wicked and abandoned for want of knowledge, but generally for want of attention and reflection, for want of exerciſing reaſon and judgment.

We muſt alſo endeavour to render our will as perfect as poſſible; for what does all knowledge avail us, if we do not thereby become better men? The principal aim, therefore, in improving our underſtanding and reaſon, ſhould be, that the inclinations of our will be thereby directed to purſue that which is really good and excellent. Reaſon is given us that we ſhould walk by its light. He who does not realiſe his knowledge in the purſuit of virtue may perhaps boaſt of the name of a learned, but can never claim the character of a wiſe and good man.

Our will is perfect as far as it is actuated by distinct ideas of good and evil, of right and wrong; and has controul over sensitive appetite, passions, propensities and instinct, by suppressing, restraining or directing them in conformity to the dictates of natural laws, our own happiness, and the felicity of others.

Our will is endowed with liberty, and we must direct it in chusing always what is really good, what in every circumstance of life is best. If this be our invariable purpose and design, our will obtains a firmness and excellency worthy the dignity of our rational nature; the pursuit of virtue will become more and more pleasant; we shall triumph over sense, passion, and the vanities of the world—be happy, and resemble the infinitely perfect pattern of holiness, as far as perfection is attainable in this life.

Great and comprehensive, therefore, is the duty we owe to our immortal souls. We must make many a sacrifice to our understanding and will, in order to conduct ourselves conformably to the will of God. We must endeavour to distinguish truth from error, good from evil, realities from appearances, principally for this end, that we may invariably pursue the one and reject and avoid the other. We must study nature in all its beauty, usefulness, harmony and order, that the heart may be convinced of the existence, the infinite wisdom, goodness and majesty of God, and sensibly feel the necessity and importance of our indispensible obligation to glorify, love and obey him. We must be indefatigable in our researches after truth, that we may have all possible motives to examine our own hearts, to invigorate our inclinations, and to render them stedfast in the pursuit of holiness. The road to

virtue

virtue often becomes arduous and difficult; many temptations muſt be overcome, paſſions muſt be ſubdued, lively pictures of ſenſe and imagination muſt be ſuppreſſed, our judgments ſuſpended, our inclinations traverſed, and the whole compaſs of our duties attended to; not one is to be done by halves, much leſs to be neglected.

Hence it is not a leſs important duty that we be extremely aſſiduous in the uſe of all the means by which the underſtanding may be improved, the will meliorated, and the mind invariably determined not to deviate in the leaſt from the line of rectitude. We muſt, on the contrary, moſt carefully avoid all things which might miſlead the underſtanding and give the will a contrary direction.

Among the means which may aſſiſt the improvement of the mind, good books and good company are principally to be eſteemed; for, as the former ſet forth the cauſe of religion and virtue in their true excellency and ſalutary tendency, ſo the latter is calculated to inſpire the mind with a noble zeal of emulation, and as a forcible ſtream to carry with it our inclinations to proſecute virtuous purſuits with ſtedfaſtneſs and delight.

But care and circumſpection are neceſſary, as there are great numbers of bad and dangerous books, and as the world abounds with bad examples and company.

Among bad books we rank thoſe principally which advocate the cauſe of irreligion, ſpeak ſlightly of virtue and its rewards, and repreſent vice as harmleſs or indifferent, or exhibit it under the captivating appearances and names of virtue.

Novels and romances of a laſcivious nature and tendency, as they have done and ſtill do a great deal of miſchief,

miſchief, are juſtly brought into the catalogue of dangerous books; for the purpoſe of them is to intoxicate the mind with falſe and fictitious repreſentations, calculated to excite and inflame the paſſions, pervert the judgment of youth, and to give a looſe to all the boiſterous inclinations of an unſettled diſpoſition. Such books in the hands of youth muſt be particularly dangerous; for, as their underſtandings, not yet mature, want the aid of experience to diſtinguiſh realities from appearances and juſt reaſoning from fallacy, not only a conſiderable part of precious time will be waſted and loſt, but their morals will be corrupted, and the temptations thrown in their way, like hidden poiſon, will have a pernicious effect.

We cannot ſpeak highly in favour of the beſt books of this kind, though their expreſs deſign is to recommend virtue and perſeverance in goodneſs under a variety of trials; for, as all is fiction, which ſeldom or never can be realiſed in life, curioſity may thereby be entertained, but no melioration of the heart effected.

We ſhould rather feel inclined to adviſe thoſe who have leiſure hours to ſpend them both agreeably and profitably in reading hiſtory: facts realiſed in life are in themſelves intereſting, and, beſides, exhibit leſſons of prudence with reſpect both to public and private life. Hiſtory gives us a lively repreſentation of the ways of divine providence in the world. Contemplating the riſe and fall of empires, we learn to revere God's righteous judgments.

Much alſo will depend upon our choice of company; for, as converſation with good and righteous perſons is one of the moſt lively incitements to virtue, and calculated to ſhield us againſt many temptations, ſo the company

company of the wicked is a peſt to good manners, the ſchool of vice, and an almoſt infallible criterion of a baſe mind and depraved heart.

What can be a greater incitement to a faithful diſcharge of our duty than the conſideration of the immortality of the ſoul? The care we take of it ſhall never cauſe regret; the good done in this life ſhall be enjoyed forever.

Sch.—The immortality of the ſoul is doubtleſs one of the moſt important truths that ever can engage the human underſtanding; for we are thereby enabled to know the great and glorious deſtiny of our nature; and it is from a due conſideration thereof that our ſouls feel inexpreſſible animation in the arduous performance of all the duties of life. It ſets divine wiſdom, power, goodneſs and juſtice in the cleareſt light, and cauſes us to triumph over all manner of adverſity, even over death itſelf. Convinced of the immortality of the ſoul, we may look for a glorious reſtoration of that frail part of our nature, the deſtiny of which is to return to the duſt from whence it is taken, until God ſhall judge every man according to his deeds. Our labour, then, in the purſuit of virtue, our denials in the faithful diſcharge of our duties, ſhall not be in vain, but ultimately crowned with ſucceſs and rewarded with everlaſting glory.

The immortality of the ſoul comprehends two things, to wit, a continual duration of its exiſtence, and the never-ceaſing conſciouſneſs of itſelf and of thoſe actions which have been done in conjunction with the body in this life.

All beings of a ſimple nature have perpetual exiſtence in common with the ſouls of men. Though we are not able to give a ſatisfactory account of the future deſtiny of the ſouls of animals, or the firſt elements of compound beings, yet we may take it for granted, that they will anſwer the great ends which infinite

finite wiſdom and goodneſs hath deſigned in decreeing and giving them exiſtence, particularly as the power of God is all-ſufficient. So much is certain, that things of a ſimple nature cannot ceaſe to exiſt as thoſe which are compounded: where parts may be tranſpoſed or diſſolved, there only changes or diſſolution can take place. If the former ſhould ceaſe to exiſt, nothing in themſelves nor any thing from without could be a ſufficient cauſe of ſuch an effect except the will of God. That power alone can cauſe things to return to their priſtine ſtate that called them from mere poſſibility to a ſtate of exiſtence.

An act of the divine will, by which God ſhould cauſe things that exiſt to return to the ſtate of mere poſſibility in which they were before creation, is known by the term *annihilation*. Beings of a ſimple nature cannot, therefore, ceaſe to exiſt but by annihilation.

But it is a queſtion, Will God annihilate? We anſwer in the negative; for, with reſpect to the ſouls of brutes and the firſt elements of compoſition, no ſhadow of proof can be afforded that their annihilation would be conſiſtent with the wiſdom of God. With regard to the human ſoul, we have convincing arguments that its annihilation would contradict the infinite wiſdom, goodneſs and juſtice of God. He ſhould have endowed it with faculties ſuperior to the limits of time and ſpace, and given that power itſelf but, as it were, a momentary exiſtence? Can infinite wiſdom and goodneſs do any thing in vain? And muſt we not aſſert ſuch an abſurdity, if we hold that the ſoul ſhall in a ſhort ſpace of time ceaſe to exiſt? Certainly a perſon who knows any thing of the power that is in man muſt be ſenſible that its thoughts connect things paſt with the

the preſent, and from theſe look forward through inconceivable eternity. Limited now to the body, it takes its range into the heavens, pervades the dark regions, the habitations of endleſs miſery, pierces through the veil of time, and beholds the bleſſed abodes where peace and joy for ever reign. That ſpirit ſhould ceaſe to exiſt that has capacities ſo vaſt and divine? What ſhall we ſay of the deſires of our ſouls, which nothing of a frail or temporary nature can ſatisfy, and which finds contentment only in the hope that it ſhall enjoy God and his communion from eternity to eternity?

And for ſuch an enjoyment the ſoul is qualified by its perſonality. It is conſcious of its exiſtence and actions in the preſent moment; it has power to recollect time which is paſt, and that power ſhall continue unto eternity. For, though the ſoul obtains primitive ideas by the organs of ſenſe, yet it forms thoſe which are diſtinct by its own application and powers, in a manner ſo far independent of the body, that this is not ſeldom an obſtacle and incumbrance to the exerciſe of thoſe ſpiritual and ſublime repreſentations, which, once impreſſed on the ſoul, can never be eraſed from its recollection. The ſoul, therefore, after ſeparation from the body, will certainly know that it once exiſted in conjunction with it, and committed or omitted ſuch actions as render it acceptable to God, or an object of his diſpleaſure. Thus the human ſoul will not only continue to exiſt, but be conſcious of its preſent and paſt ſtates, and capable of everlaſting rewards or puniſhments; that is, the human ſoul has not only perpetual duration, but is deſtined for immortality.

This truth, together with a future ſtate of exiſtence of our bodies, is ſtill more firmly eſtabliſhed upon the unerring

unerring juſtice of God. Shall the judge of the world not do right? Shall not every good action meet its reward, and all acts of unrighteouſneſs be ultimately puniſhed according to their deſerts? We anſwer in the affirmative; for that God is righteous is as certain as that he exiſts; and as the heavens and the earth declare his exiſtence, ſo the day will come when they ſhall witneſs and approve his righteous judgment.

Sch. 1.—Though we hold to the continued duration of all beings of a ſimple nature, yet we deny that any other than thoſe which are intelligent are poſſeſſed of an immortal nature. Immortality is the prerogative of ſpirits.

Sch. 2.—But ſhall not our bodies be alſo raiſed to immortality? We anſwer, that the glorious immortality with which our bodies ſhall be endued does not flow from the natural powers of them, but from the power, wiſdom and juſtice of God.

Since the ſoul and body are the eſſential parts of our nature, and exiſt in the cloſeſt union and harmony whilſt we are in this life, it follows, that we cannot perform our duty to the ſoul if we do not at the ſame time endeavour to render the body as perfect as poſſible.

As the body is capable of an infinite variety of modes, influential on human happineſs, among the various perfections of which it is ſuſceptible we may diſtinguiſh thoſe which are *born with us* from others which are *acquired.*

The perfections of the body born with us may be called its *conſtitution*; thoſe which are acquired conſiſt of various *habits* and *accompliſhments*, and have reference either to the neceſſaries, the conveniences or the luxuries of life: as they may be conformable or contrary to the dictates of natural laws and the ſcope of our preſent exiſtence, they become particular objects of commiſſive and omiſſive duties.

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The foundation of conſtitution, health, and all other accompliſhments, is *life* itſelf, the greateſt of earthly bleſſings. The oppoſite of life is *death*, the greateſt evil that can befal the body.

Love to life and the fear of death are inſtincts which we have in common with other beings endowed with animal life, ſave this difference, that the ſenſe thereof is heightened by the proſpect of futurity, which brutes are incapable of, or poſſeſs in a very ſmall degree. But as rational creatures enjoy life for far more glorious purpoſes than brutes, it becomes us to love life, not for the ſake of its enjoyment ſolely, but principally for the purpoſe of being active in the performance of all the duties which the Creator has aſſigned us for the great ends of his glorification, for our own felicity and that of others. Thus animal life, which conſiſts in the activity of animal powers, becomes rational in man, if not only the powers of the body, but principally thoſe of the ſoul are employed and conſtantly active for the attainment of the end of his exiſtence, for a felicity that laſts for ever.

Sch.—How important is life, if it is conſidered as a ſtate of preparation for that of a more glorious and everlaſting exiſtence! How inglorious, when theſe great ends are neglected, when men, endowed with rationality, live to no better purpoſe than to go through the rotine of eating, drinking and ſleeping, until death finiſhes their career! If the brute lives ſo, it lives innocently, and accompliſhes the end for which its exiſtence is given: but can man be innocent, if his ſoul is not active in the purſuit of virtue, perhaps active in ſin and vice? Does he live up to the dignity of his nature by ſpending his days idly and unprofitably to himſelf and others?

It is, therefore, an important duty that we learn to know the value and deſtination of life, that we may improve it by an indefatigable purſuit after virtue.

Upon this conſideration it cannot but be one of our firſt duties that we endeavour to *preſerve* life.

This duty is generally known by the term *ſelf-preſervation*, and writers on morality juſtly lay it down as the greateſt and firſt of duties; for if life ceaſes, all poſſibility to do our duty in this world is at an end.

The horrid crime oppoſed to this duty is *ſuicide*, where a perſon deprives himſelf of life.

Sch. 1.—Since we have not given life to ourſelves, and ſince it is given by God for greater and more glorious purpoſes than ſenſual enjoyment, it follows, that no perſon, under any circumſtances whatever, is at liberty to take away his own life.

Sch. 2.—It is to be hoped, that a crime ſo unnatural will find no advocates among the rational part of mankind; and there is cauſe to ſuppoſe, that perſons who have made themſelves ſad examples of its perpetration have laboured under mental infirmities, or were ſurpriſed by moſt violent paſſions.

Sch. 3.—Suicide may betray daſtardly cowardice, but can never be a ſign of magnanimity and true courage. The example of Cato is not an exception, and his harangue is ſtoic bombaſt and phrenzy.

All actions where life is expoſed to unneceſſary danger, amount to a kind of ſuicide, and are therefore to be avoided.

But life may be expoſed to imminent danger in a very juſt manner, nay, even loſt with glory, when the glory of God or public good in an immediate manner require that ſacrifice; for the chief end of life is the glory of God; and with the preſervation of our country, our own life and the preſervation of other valuable lives is connected. By thus ſupporting the cauſe of God and of our country, we cannot be charged with

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ſlighting a bleſſing, but we are to chuſe, in a colliſion of important duties, the performance of the greateſt.

The preſervation of life is immediately connected with another important duty, which enjoins all poſſible care and the obſervance of all neceſſary means to preſerve our health. A ſickly life is but a lingering death; for what are things of the moſt exquiſite taſte and beauty to a conſtitution dead to enjoyment and pleaſure? Sickneſs not only renders the body unable to perform the duties of our calling, but alſo damps the powers of the ſoul, and thus unfits it for any great and uſeful undertaking: in ſhort, it renders life diſagreeable to ourſelves and unprofitable to others.

Thoſe, therefore, who, by the ill management of life, by exceſſes, luxury, idleneſs, and intemperance, ruin their conſtitution, ſin againſt their own life and render themſelves in ſome meaſure guilty of ſuicide.

Our conſtitution being the quality of the body born with us, conſiſts in a harmonious ſtructure and a moſt wonderful mechaniſm of its ſeveral parts: theſe depend for their operations upon things which ſupport that harmony. There is a proper mixture of fluids requiſite to prevent its derangement. Too great a waſte of powers, or other extraneous cauſes or accidents, may debilitate, nay, deſtroy it.

Many things, therefore, are neceſſary for the preſervation of our health, which of courſe become important duties:—We muſt procure ſufficient meat and drink, afford the body moderate reſt and relaxation, provide it with cloathing and convenient ſhelter againſt the inclemency of the ſeaſons, ſtudy cleanlineſs, &c.

As all theſe duties require the application of mental faculties and bodily ſtrength, there is ſufficient cauſe

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on that account why labour and diligent application ſhould be claſſed amongſt the moſt indiſpenſible duties for the preſervation of life and health.

But there is another conſideration which, if poſſible, enhances the obligation, and ſhould particularly endear to us a uſeful occupation in life: this is, that exerciſe and health, labour, and the enjoyment of the good things of this life, are inſeparably connected. Labour invigorates, idleneſs and luxury weaken our conſtitution: a laborious perſon finds exquiſite ſweetneſs in the coarſeſt and moſt common nouriſhment, whilſt the luxurious idler is condemned to chew, not to eat, ſince he finds reliſh in nothing.

Another neceſſary mean and duty for the preſervation of our health is *temperance*, that excellent virtue which commands moderation in all our enjoyments:—intemperance, with its ſcandalous offspring, gluttony, drunkenneſs, laſciviouſneſs, incontinence, pride and oſtentation, independent of their horrid effects upon the peace of families and ſociety, may be looked upon as more deſtructive to the life of mankind than war, hunger and the plague together.

Serenity and tranquillity of mind, the natural conſequences of a prudent and virtuous conduct, form an invaluable ingredient in the promotion of health. A faithful performance of our duties, therefore, becomes neceſſary, not only for the perfection of the ſoul, but alſo for the perfection of the body.

Sch. 1.—From the comprehenſive duty which commands the preſervation of life and health, many inferences may be drawn, which might ſerve as maxims for the regulation of our conduct in the multifarious ſituations and circumſtances of life. We ought, for inſtance, to be truly ſenſible of the neceſſity of government, and the great advantages

tages we derive from its protection, ſince, among many other valuable benefits, it affords ſecurity to both life and property.

Sch. 2.—We ought to avoid every thing by which others may obtain the right to confine our perſon or deprive us of life.

Sch. 3.—It will often become our indiſpenſible duty to ſeek the aſſiſtance, and faithfully to follow the directions of thoſe who have ſucceſsfully applied their time and talents to the ſtudy and practice of the healing art.

Sch. 4.—Life above all things is precious; but nothing is more valuable in life than health and a good conſcience.

There may be ſituations of life in which it will become impoſſible for us to obey all the laws which have controul over us, on account of their colliſion: in ſuch caſes we cannot perform all our duties; but by acting conformably to one we muſt act contrary to another; that is, our duties *claſh*, and it becomes our obligation to perform the greateſt in preference to the leaſt.

Whenever a duty claſhes with the great law of ſelf-preſervation, we are ſaid to be in a *ſtate of neceſſity*.

The ſtate of neceſſity may be abſolute, extreme, or reſpective.

A ſtate of *abſolute* neceſſity is, where life is in imminent danger; as, where a perſon with a drawn ſword or a charged gun runs againſt another threatening to take away his life.

A ſtate of *extreme* neceſſity is, where our own life is not immediately in imminent danger, but that of perſons who are next to life dear to us; or, where things abſolutely neceſſary for the preſervation of life are forcibly taken away; as, for inſtance, if a perſon runs up with ſword or piſtol in a threatening poſture againſt another's wife, child, brother, father or neighbour; or, if he is taking away our proviſion in a deſert far diſtant from a poſſibility of obtaining a ſupply, &c.

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A ſtate of *reſpective* neceſſity has reference to caſes where life has not really been in imminent danger, but where the agent has conſidered himſelf in ſuch a ſituation: for inſtance; a perſon may have a gun uncharged, a circumſtance well known to himſelf and to others, but unknown to him whoſe courage he intended to put to a trial, by aſſuming a threatening poſture with the weapon in his hand.

In a ſtate of abſolute neceſſity, the duty of ſelf-preſervation juſtifies and commands to take away the life of an aggreſſor, if it is not in our power to defend ourſelves by any other means. But to take away life when we can preſerve our own by maiming or otherwiſe diſabling or confining the aggreſſor, would be naturally unlawful.

The ſame duties will reſult from a ſtate of extreme neceſſity. If we cannot defend the life of a wife, child, &c. &c. without taking the life of the aggreſſor, ſelf-preſervation juſtifies that dreadful alternative. The ſame would be the caſe if thoſe things are taken away whereon the preſervation of life immediately depends; as, proviſion in a wilderneſs.

In a ſtate of reſpective neceſſity, we cannot account for the feelings of another. If he who paſſes an imprudent and unmanly joke upon another ſuffers, we have cauſe to pity his indiſcretion, but judge the defendant innocent.

In judicial proceedings, conſideration for the feelings of a perſon who has conceived himſelf in a ſtate of neceſſity, is ſtiled *favour of neceſſity*.

Sect. 1.—Extreme neceſſity may be greater or leſs; perſons likewiſe differ with reſpect to temper; circumſtances have alſo a conſiderable influence upon the human mind; ſo that

that it is very difficult to judge what a perſon ought to have done or omitted. We ſhould not be forward, therefore, to enter upon a peremptory judgment with reſpect to the conduct of others, who have been more or leſs in a ſtate of neceſſity, or had cauſes to conceive themſelves in ſuch a ſituation.

Sch. 2.—The barbarous cuſtom of duelling being founded upon a chimerical law of honour, in direct contradiction to the ſacred precepts of moral law, is ſo far from coming under a ſtate of neceſſity, that it is in every inſtance a premeditated act of wilful tranſgreſſion againſt the laws of God and the municipal laws of the land—a crime equally participating of ſuicide and of murder.

Sch. 3.—A wiſe and good man will never ſuffer himſelf to be miſled by ſuch miſtaken notions of honour; nor will he ever find himſelf deſtitute of the moſt efficacious means of defending his character; for, wiſely purſuing the path of virtue, he cannot fail of having the good opinion of the upright in his favour; and he ſets not ſo great a value upon the eſtimation of perſons of a contrary character as that he ſhould wilfully violate the laws of God and his country.

There are innumerable things neceſſary as means for a prudent and faithful performance of the duties we owe to the ſoul and body.—Things neceſſary and convenient for the preſervation of life, and calculated to aſſiſt us in the performance of our duties, may be comprehended under the term *eſtate*.

It therefore becomes a weighty duty which we owe to ourſelves, that we endeavour, by all lawful means in our power, to procure and to preſerve an eſtate.

Actions by which an eſtate may be procured and preſerved in a lawful manner, are denoted by the term *labour*; and a certain mode of conducting labour is called an *occupation*.

We are conſequently bound to labour, and to follow a certain lawful occupation.

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Sch. 1.—It is from the ſurpriſing variety of occupations that each perſon may be uſefully employed and may lawfully obtain a portion of the general ſtock of thoſe things which are neceſſary and convenient for life: it is from the ſame ſource that countries draw their riches, and acquire importance and ſtrength; that commerce flouriſhes, and the produce of the earth, the fruits of induſtry, ſupply and connect the moſt diſtant regions of the globe.

Sch. 2.—The oppoſite of labour is *idleneſs*, a pernicious, unnatural and moſt injurious vice, in itſelf diſgraceful to human nature, and the fatal ſource of innumerable evils, deſtructive both to the morals of the idler and others, and hurtful in a high degree to families and ſociety.

It is conſequently our duty to make the beſt uſe of our own for rendering life as uſeful and comfortable as poſſible; and, as our own means and application may not always prove ſufficient for theſe purpoſes, we muſt endeavour to conciliate the good will and aſſiſtance of others.

This leads to another important duty which we owe to ourſelves; that we remain in all our actions and purſuits ſolicitous to maintain a good name and character; for nothing more conciliates the good will and benevolence of others, or renders us more extenſively uſeful in life.

It is true, that a good name and character reſt upon the good opinions of others concerning the rectitude of our conduct, and that nothing ſeems to be leſs at our command than that opinion: but we may not thence infer that a good name and character are things entirely of a precarious nature or unattainable. A faithful performance of all our duties will attract the notice and influence the good opinion of all the virtuous and upright who know us; to have a good name with them is true honour; nay, virtue has a certain charming power

power even in the ſight of thoſe who are votaries to vice, that they cannot but eſteem it in others. However that may be, we have cauſe, for our own ſatisfaction and contentment in life, to maintain that character; for if the world proves unjuſt, we ought to do ourſelves juſtice, and defeat, by a ſtedfaſt conduct in the line of rectitude, all attacks which envy, calumny or malice may invent.

Among the means given us for the great duties which we are bound to perform to ourſelves, is principally *time:* we ought to be careful to improve it by a wiſe, prudent and diligent management of every thing that is comprehended in our duty to God, to ourſelves and to others. Time unprofitably ſpent is waſted, loſt. Our duties in life are great; the time allotted for the faithful performance of them is limited to an uncertain and ſhort ſpace.

It is evident from what has been hitherto explained, that our duties are not only extremely comprehenſive, but likewiſe ſo variouſly modified, ſo intimately connected and interwoven with one another, that all our exertions, all poſſible care, prudence and circumſpection ought to be joined to our pureſt intention, leſt we be wanting to ourſelves, and eventually miſs that happineſs which is, next to the glory of God, the great and ultimate end of our exiſtence.

It is for this end that we ſhould beware of *ſeparating our duties*, which will be the caſe if we perform ſome and neglect others, if we are careful in one reſpect and negligent in others.

Let us not prepoſterouſly imagine, that we can be faithful to ourſelves without being ſo to God and to our

fellow creatures; or that we can pleaſe the Almighty, if we neglect the duties to ourſelves and others.

Sch. 1.—Hence it appears, that impoſing upon ourſelves particular hardſhips and ſeverities under the idea of ſelf-denial, is unjuſt cruelty committed againſt ourſelves, and by no means a ſervice rational or pleaſing to God.

Sch. 2.—It is likewiſe evident, that we cannot be truly religious if we do not endeavour to be as uſeful to others as poſſible, or if we neglect duties which we owe to ourſelves and our own houſhold.

Sch. 3.—It is therefore a falſe notion, if people place religion only in immediate acts of worſhip, confined to houſes of public aſſemblies, meetings, or the cloſet; as if thoſe things had a peculiar merit in themſelves, and were not ordained or neceſſary to qualify us for the faithful performance of all our duties in all circumſtances, ſituations and relations in life. It is a high authority that commands us, *whether we eat or drink, or whatſoever we do, to do it to the glory of God.*

Even in that claſs of duties which has immediate reference to ourſelves, particular care and circumſpection is neceſſary to beware of a fatal ſeparation of duties: for it is poſſible,

1ſt. That perſons may ſuppoſe themſelves well engaged in their duties towards ſoul and body, even whilſt they neglect things neceſſary, convenient and uſeful for life, by ſquandering away or being unconcerned for an eſtate, not carefully attending to an uſeful occupation in life, or ſlighting the good opinion of others.

2d. That man may confine his care and attention entirely to the ſoul, neglecting the body and all concern for the means of ſubſiſtence and ſupport.

3d. That he may pay all attention to the body, whilſt the weighty concerns of an immortal ſoul are neglected, and whilſt he is unmindful of neceſſary labour and the preſervation of an eſtate.

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4. That perſons may engage with ſo much avidity in the purſuits of honour, preferment and an eſtate, as to forget their important obligations to ſoul and body.

Sch. 1.—If we except the ſuperſtitious modes of monaſtic life, there are perhaps but few inſtances of ſuch as conſume their health and ſubſtance by too ſevere application for the improvement of their mental faculties: ſo much is certain, that a ſtudious and ſedentary life requires relaxation of the mind and ſome bodily exerciſe for keeping the conſtitution ſtrong and vigorous.

Sch. 2.—The number of ſuch as wiſh to ſhine in literary or great circles, who feel an ambition for dreſs and a ſumptuous way of living, ſet an example of high life before their children, or bring them up in a higher ſtate than their circumſtances permit, may be more conſiderable. However that be, they are more dangerous to ſociety than the former, as the effects of their extravagance are frequently felt by the induſtrious part of the community, who have afforded the means thereto without receiving juſt compenſation. Such characters may ſhine in faſhionable life, but they are in reality unjuſt to themſelves, to their houſhold, and to others.

Sch. 3.—The glutton, the drunkard, the ſpendthrift, &c. ſerving their bellies, conſume the patrimony of their children, lead a beaſtly life, and are drones to ſociety.

Sch. 4.—The miſer, callous to every feeling of humanity, is oppreſſive and cruel to all who are under his authority, and uncharitable both to himſelf and to others; his only aim is to gather for his children, who are brought up in ignorance and ſtupidity, and, like him, remain ſtrangers to both mental and corporeal accompliſhments.

Sch. 5.—As theſe are but a few inſtances of the evil conſequences flowing from a ſeparation of duties which men owe themſelves, we may eaſily conceive how dreadful is the evil if, beſides reprehenſibility in this particular, a ſeparation takes place in the duties we owe to God and to our fellow creatures.

In each of theſe caſes, nay, in every inſtance where duties are ſeparated, we act contrary to the dictates of natural

natural laws; for we do not render ourſelves as happy as poſſible. Inſtead of performing our duties, we pervert them, and render ourſelves guilty of neglect and diſobedience.

If, then, the great extent and high importance of our duties be well conſidered; if our natural infirmity be brought into contraſt with the high degree of purity and rectitude which is required in all our intentions and the whole conduct of life, through innumerable temptations which beſet us from within and without; we may well conclude, that more is required for our ultimate happineſs than human nature in its preſent ſtate is able to perform.

Muſt not this lead to another inference, equally rational, of the greateſt importance, and perhaps not improper to be introduced here, that *our nature is fallen from its original purity, and muſt be renewed and powerfully aſſiſted if we are to be happy?* Alas! there are innumerable paſt offences which, were it even in our power, the moſt perfect performance of our duties for the future could not eraſe: and as our beſt endeavours ſtill fall ſhort of what we know to be our indiſpenſible duty, the proſpect of an atonement on our part is as gloomy as the retroſpect on our former accumulated guilt.

Reaſon, however, leaves us not without hope: juſtice and mercy in God may meet together. A *ſupernatural* remedy is poſſible with him who is infinite in power and wiſdom, and from his infinite goodneſs it may be expected.

Hence, in a ſtriking manner, flow both the probability and the neceſſity, on our part, of a ſupernatural light,

light, by divine revelation, ſhewing the way of our reconciliation with the offended majeſty of heaven.

If ſuch a revelation be given by God, it muſt have ſtriking and infallible criteria, by which it may be inconteſtibly aſcertained as ſuch, and thereby diſtinguiſhed from the falſe and pretended.

Among the criteria of a divine revelation, the following particularly deſerve our notice: that it muſt reveal a mode of reconciliation which is beyond the reach and power of reaſon, yet by no means contradictory thereto; that the way of happineſs which it points out is perfectly conſiſtent with the glory and perfections of God, and fully adequate to the natural infirmity and ſpiritual wants of man; that it reſts upon an extraordinary and the beſt eſtabliſhed teſtimony.

Sch. 1.—The firſt criterion reſts upon this plain proof: If there were a way of reconciliation within the reach of reaſon, an expreſs divine revelation would not have been neceſſary, conſequently not given; for God does nothing in vain.

Sch. 2.—As reaſon is given by God, and as revelation is neceſſary for the purpoſe of affording it more light and elevation with reſpect to thoſe things which are requiſite for our eternal happineſs, it is evident, that what is contradictory to reaſon cannot be a revelation proceeding from God.

We ought, therefore, well to diſtinguiſh things beyond the compaſs of reaſon, from ſuch as are contradictory thereto.

Sch. 3.—If a revelation ſhould point out a mode of reconciliation contradictory to the divine perfections, it would carry with it the inconteſtible proof of its fallacy.

Sch. 4.—A mode of ſalvation which is incompetent for relieving the infirmities and ſpiritual wants of men, cannot have God for its author; nor is the revelation pointing it out from God.

Sch.

Sch. 5.—Men pretending to a miſſion from God, muſt be endowed with ſuch gifts as will enable them to prove that miſſion by extraordinary ſigns and wonders.

It is therefore a moſt important duty to ourſelves, that we carefully examine into what is offered as a divine revelation, and embrace and follow that which has theſe incontrovertible criteria of divine truth; for, by a contrary conduct we neglect the uſe of means requiſite for our happineſs, are guilty of ſeparating our duty, act contrary to the dictates of the laws of God, both the natural and revealed, and render ourſelves miſerable.

There is not, nor has there ever been a book in which theſe and other criteria of divine truth were to be found, beſides the bible containing the Old and New Teſtaments: theſe exhibit a revelation of the will of God concerning our eternal ſalvation, worthy a divine origin, and worthy the adoration both of angels and men: here we find doctrines ſurpaſſing indeed what finite beings fully comprehend, yet perfectly conſiſtent with reaſon; doctrines ſo far from being repugnant to the perfections of the Deity, that they repreſent them in their full glory. Infinite juſtice and mercy are ſhewn in their intimate connection, in perfect harmony, as they meet in a Redeemer's righteouſneſs: God, the holy one of Iſrael, juſtifies the ungodly: divine power converts the ſoul and renews the mind: the ſpirit of God inſpires the heart with the principle of faith and holineſs: God works to will and to do according to his good pleaſure; man is by grace enabled to work out his ſalvation.

For this end we alſo find in theſe books all duties to God, to ourſelves and others, deſcribed in their greateſt extent and purity: here all is ſanctioned with the majeſtic

jeſtic command of God; death and life are laid before man, and the moſt cogent motives given for exciting his obedience. The divine perfections, the eternal love of our heavenly Father, the philanthropy, the ſufferings, the death, the reſurrection, the future judgment, &c. of the Son of God, ſhould ſtrengthen our ſincerity, and quicken our diligence in the purſuit of virtue and holineſs. The great truths which reaſon faintly comprehends are here laid open; the immortality of the ſoul, the reſurrection of the body, the final righteous judgment of the Lord of heaven and earth, is brought to full light. There is an eternal and infinitely glorious reward reſerved for thoſe who love him. God is all-ſufficient, unchangeably faithful.

Theſe ſcriptures ought, therefore, to be received as the expreſs divine revelation of God for our preſent and future happineſs. They exhibit the moſt perfect rule of faith and life, given by the higheſt poſſible authority, for conducting us in the beſt manner as men and chriſtians; the moſt perfect ſubjection, therefore, is due to its directions.

Hence it follows, that if we neglect the reading, hearing and obeying the word of God, we commit a moſt heinous offence againſt heaven and our own happineſs.

Sch. 1.—Let us therefore not vainly imagine, that we know enough of our duties when we are able to trace them from natural principles. Let us not reſt contented with the glimmering light of reaſon, but reſort daily to the divine revelation. Let us draw from the fountain head, enjoy the full light of the goſpel for conducting ourſelves conformably to the will of heaven. Let us be ſenſible of our ſpiritual wants, and among other things which call for the duties of invocation and adoration before the Moſt High, aſk from the Father of Light that wiſdom which

which is from above, and the guidance of his ſpirit in all the ways of holineſs and truth.

Sch. 2.—There is nothing better calculated to give us both light and ſtrength in the performance of the duties of chriſtianity, than the ſolemn opportunities which the public exerciſes of religion ſo frequently afford: theſe are not only adapted to impreſs the mind with a moſt lively ſenſe of the omnipreſence of God, and give it that elevation above all things of a tranſitory nature which enables us to worſhip him in ſpirit and in truth; but they likewiſe remind us continually of our infirmity, ſet before us the mercies of our God, and engage us in the concerns of an everlaſting life and happineſs.

Sch. 3.—Let us therefore ſet a proper value upon theſe ſolemn opportunities; let us eſteem them as our greateſt privileges; let us uſe and improve them for the great and ſalutary purpoſes for which they are given.

Would it not be the height both of indiſcretion and ingratitude, if we ſhould refuſe or reject the light which is given us for purſuing and obtaining everlaſting happineſs?

The ſcriptures ſet the higheſt poſſible pattern of virtue before us; we are not to reſt contented with any thing ſhort of the will and perfections of God: *Be ye perfect*, it is ſaid, *as your Father which is in heaven is perfect*. It is true, we ſhall never be able to attain to that purity and perfection which, as an attribute of the Moſt High, is unattainable by any finite being; ſtill, by preſſing forward we ſhall, with divine aſſiſtance, come nearer and nearer to his image, and may humbly hope, that our ſincere endeavours will be acceptable to him, and ultimately rewarded with an exceeding great reward.

The road of virtue is difficult; extremes muſt be avoided in all our actions; the whole ſum of our duties muſt be attended to, leſt we deviate from the path of rectitude, and render ourſelves miſerable.

Sch.

Sch. 1.—No action, not even the beſt intended, can be *virtuous*, if it contradicts any of our duties: we ought to be as careful not to ſin by exceſs, as we ſhould to guard againſt deficiency in any of our efforts. Let it be obſerved, that virtue is a mean between two oppoſite extremes, which deſerve the name of vices, becauſe they are wilful and habitual tranſgreſſions againſt moral rectitude, and againſt the law and will of God; and that, beſides vicious and wilful habits of vice, there are innumerable intermediate deviations from virtue, which conſtitute greater or leſs faults, as the will of the agent is more or leſs engaged, and his conduct more or leſs conformable to the line of duty.

Sch. 2.—Theſe obſervations ſeemed neceſſary in this place; for, as our obedience cannot but be imperfect in this life, there is danger that we fall into extremes with reſpect even to our judgment, by being too ſtrict or too lax, by narrowing as it were the path of virtue, that none feels an inclination or diſcovers a poſſibility to walk therein; or, on the other hand, by throwing open the bars of rectitude, to flatter vice and render ſinners ſecure.

Sch. 3.—Let us conſider that our perfection admits of degrees, and that we are ſaid to be virtuous not becauſe there is no imperfection, no manner of fault in us; this is the ſtate we look for in another life; but we may flatter ourſelves to be in the way of virtue, when we grow daily in ſincerity, goodneſs, uprightneſs and piety—when we hate ſin and vice, deny ourſelves and the world, and love God in ſincerity and truth.

Sch. 4.—We have obſerved, that each virtue is a mean which has two oppoſite extremes, beſides a number of intermediate deviations; ideas which perhaps will not be generally underſtood without ſome kind of illuſtration.—Suppoſe the known figure of a circle, with its diameter: if lines be drawn through the points of the circumference which are cut by the diameter, ſo that they do not equally touch the centre, they cannot be perfectly ſtraight; however, they are far from being as crooked as the circumference or lines near it: compared with theſe they may rather paſs for ſtraight. Thus, as perfection is not expected in human conduct, actions, where the deviation is very ſmall, muſt not be confounded with eccentricity of conduct:

faults may be greater or leſs, and ſo numerous as at laſt to contract the guilt and eccentricity of vice. Take, for other inſtances, the highly commendable virtues of *courage*, *frugality* and *piety;* are not the extremes thereof, known by the terms *temerity*, *profuſeneſs*, *ſuperſtition*, as remote from them as the extremity of defect, as *cowardice*, *avarice* and *impiety?*—May there not alſo be defects with reſpect to thoſe virtues which do not amount to temerity, profuſeneſs and ſuperſtition, nor render an agent guilty of cowardice, avarice and impiety?

As duties are actions done conformably to laws, they muſt be conſiſtent with our moral obligations; nothing, therefore, can be our duty that is repugnant to our obligations. But as obligations and rights are things inſeparably connected, it likewiſe follows, that we muſt have particular reſpect to our own rights and thoſe of others, and that nothing can be our duty which is inconſiſtent with them.

Sch.—Let us then, in all the purſuits and purpoſes of life, ſtill remember the important queſtion, *Is it right?* As virtue is generally a habit to conduct ourſelves conformably to law, we may conclude, that it is of infinite importance early to form ſuch habits as are conformable to the will and law of God, both the natural and revealed, and to guard againſt any deviation from our duty, leſt a contrary habit be contracted, which will eſtrange the mind from the love of virtue, and render the attainment of it difficult, perhaps impoſſible.—As we cannot too ſoon begin the practice of virtue, ſo there is no maxim, perhaps, better calculated to ſecure us againſt vice than this: *Principiis obſta! Beware of beginnings!*

CHAPTER

CHAPTER III.

Of the duties of humanity in general.

WITH reſpect to the duties which we owe to our neighbour, reference may be had to imperfect obligations and laws, which, as they warrant no right of compulſion in any perſon to enforce performance on our part, leave a compliance with his wiſhes or applications entirely to our own good will and free choice, without the fear of coercion: or reſpect may be had to perfect obligations and laws, which, in caſes of non-performance on our part, give our neighbour a perfect right to enforce it by coercion or violence. Duties thus conſidered are of two kinds: the former are called *imperfect duties*, or *duties of humanity*; the latter are known by the appellation of *perfect duties*, or *duties of neceſſity*.

Sch. 1.—Inſtances of the firſt kind we find in the duties of *love*, *friendſhip*, *aſſiſtance*, *gratitude*, *ſympathy*, *forbearance*, &c. Theſe, as we ſhall ſhew in the next chapter, we owe our neighbour, and of them, in one or the other reſpect, he may ſtand greatly in need; but, as he has no right to enforce their performance, his only reliance is on our good will: if this ſhould fail, nothing remains but patiently to bear the diſappointment, or repeat his application in hopes of better ſucceſs.

Sch. 2.—But it is quite a different thing with reſpect to the duties of neceſſity: for inſtance; the *payment of taxes by a citizen*, in conſequence of the directions of the laws of the land; the *obedience due from an officer to his general*, from a *ſoldier to his officer*; the *labour which a ſervant is to perform for his maſter*; the *payment which a debtor muſt make to his creditor*. Here government may compel the citizen, the general the officer,

officer, the officer the ſoldier, the maſter the ſervant, the creditor the debtor; as the laws give each reſpectively the right, in caſe of non-compliance, to enforce it by coercion and violence.

Treating in this chapter of the duties of humanity in general, it may not be amiſs, perhaps, to appriſe the reader, that there are writers who have expreſſed a wiſh for terms to denote duties of the firſt kind more ſuitable than the expreſſions *imperfect duties*, or *duties of humanity*; terms which, they ſay, are very apt to convey the erroneous ideas, either that there is ſomething of a defective nature in thoſe duties, with reſpect to their internal beauty and excellency, or that the performance of them is leſs cogent and neceſſary than that of perfect duties; whereas thoſe duties which eſtabliſhed uſe deſignates by theſe improper terms, are the moſt exalted in their nature, the moſt excellent of all our duties; and the faithful performance of them conſtitutes the greateſt ornament of the human character.

However, as in all ſciences attention is neceſſary to the definitions of ſubjects on which they treat, in order to avoid miſapprehenſions and miſtakes, let it be obſerved, that this is more particularly requiſite in inſtances like the preſent, where language furniſhes only ſuch terms as at firſt ſight ſeem to favour ideas repugnant or derogatory to the objects which they are intended to deſignate.

Upon this conſideration, as our definition is well calculated to impreſs the mind of the reader with the internal beauty of theſe moſt, nay only, excellent duties, we may expect, that a due attention thereto will ſecure him againſt any improper idea which the common uſe of theſe terms might be ſuppoſed to ſuggeſt.

And

And will not this ſuppoſed impropriety vaniſh, if theſe expreſſions are taken in a true reference to their ſpecific objects?

What impropriety is there in calling duties imperfect, to the performance of which our neighbour has but an imperfect right?

And may not thoſe duties be called duties of humanity, which are done from an inward ſenſe of obligation, without any controul or fear of compulſion? Certainly, if free agency is, what it really is, the glory of human nature, then the entirely voluntary exerciſe of this heavenly gift, in the purſuit of actions of the higheſt excellency and rectitude, cannot fail to be highly ornamental to the character of man, and becoming the dignity of human nature.

What ſerves ſtill more particularly to impreſs the mind with a due ſenſe of the great importance of theſe duties, and ſhould quicken our diligence in faithfully obeying the gentle precepts of the laws of nature and of nature's God, inviting us to the moſt cordial performance of our obligations, is the conſideration that all our duties, whatever their immediate objects may be, are either duties of humanity *in themſelves*, or may and ought to be *made ſuch* by all who ſet a value upon virtue and the approbation of a good conſcience; for no moral action is conceivable but where room is left for choice, and where, in ſome degree or other, it depends upon our ſpontaneity, whether we will do or omit it in a manner conſiſtent with our internal obligations, or in conſequence of the degrading principle of ſervile fear, or dread of violence.

It is on this account that a faithful obſervance of the duties to God and to ourſelves ſo much heighten the excellency

excellency of the human character; they are in themſelves duties of humanity, depend upon our free choice, and give free agency the moſt ample ſcope; internal motives actuate the mind. We act worthy of ourſelves if we conduct ourſelves as rational beings, by glorifying our Creator and Preſerver, and by advancing our own felicity.

If we ever love God, we muſt love him freely; no forced ſervice is acceptable to the Deity: he requires the heart in all, and this we ought to offer him freely.

No action that is done or omitted with reſpect to ourſelves, can be a virtue, or in any degree ornamental to human nature, which does not proceed from an internal ſenſe of duty, and is not done in ſincerity and truth. An human agent forced to do a profitable action, is in that inſtance as little above the level of brutes as his action has internal merit. Theſe cannot act freely, but muſt be forced into a compliance with our wiſhes.

In all acts of impiety, impropriety, indecency, injuſtice and oppreſſion, man abuſes free agency, ſins againſt the dignity of his nature, and degrades himſelf far below the order of beaſts.

Behold both the excellency and neceſſity of a moſt careful performance of the duties of humanity, with reſpect to God and to ourſelves!

Of the ſame nature are our duties with reſpect to the brute creation and to other things of an inanimate nature: he who ſhould think that we might conduct the management and uſe of them in quite an arbitrary and capricious manner, would give us but indifferent proofs of his underſtanding and heart: both reaſon and revelation point to the wiſe and benign deſign for which

which they are given: by abuſing them we render ourſelves ungrateful to God, and act in a manner unbecoming the rationality of our nature.

Though the dumb creature cannot ſet up a claim of perfect right; though things inanimate have no ſenſe of pain or ſatisfaction, like the former; and though neither of them can apply force to avert tyranny or abuſe; ſtill there are duties on our part, duties of humanity: we ought to conduct ourſelves in that reſpect, as indeed in all other occurrences of life, conformably to the will of God.

Sch.—Shew me a man who is cruel and inhuman to brutes, who wantonly deſtroys or abuſes other things; thouſand to one but you point out a perſon who cares little for God and his own conſcience.

We have already ſeen, that ſome of the duties to our neighbour, that is to ſay, to our fellow creatures, are in themſelves perfect, and liable, in reſpect of performance, to violence and compulſion. However, it may be eaſily diſcovered, that we can make them on our part imperfect duties, by preventing the exerciſe of our neighbour's perfect right, that is to ſay, by doing freely, from a ſenſe of our duty, what another has a right to enforce. Perfect laws warrant force only in caſes of reluctance, delay or oppoſition; there is, conſequently, no cauſe to fear violence where it may not be exerciſed. The ſtricteſt duty of neceſſity may therefore, without any ſhadow of doubt, be made with us duties of humanity.

Whatever our ſocial connections may be, we ſhould feel an ambition to perform our duties from choice rather than from fear. Prudence and a tender regard for our repoſe and character require, that we ſhould

ſhould lay more ſtreſs upon the will of God and the internal ſenſe of our duty, than upon the conſideration that others are poſſeſſed of perfect rights, or that there are compulſory remedial rules provided by perfect laws: theſe are againſt the unruly, the diſorderly, the diſhoneſt, the unjuſt part of ſociety, for the purpoſes of protecting the upright and conſcientious man, who is actuated by the impulſe of his internal obligation, and does freely what is right.

Sch.—Here we may advert to what ſcripture declareth, *the law is not made for a righteous man.* 1 Tim. i. 9.

Would it not be, as it were, a new heaven and a new earth, if the practice of the duties of humanity ſhould become co-extenſive with the human race, compaſſing all that is or can be an object of human thought and deſire? Behold man, the obedient ſervant of God, the beloved object of his complacency, the friend of his Creator! Strenuous and indefatigable in the purſuit of virtue, behold him an ornament to himſelf and to human nature! Behold all men, united in virtuous ſentiments and in mutual love, conſpiring in their endeavours to glorify their Maker, zealous to befriend one another and to be benefactors of brutes, all of one accord endeavouring to make the wiſeſt and beſt uſe of the gifts of Providence! all cauſes of ſtrife, animoſity, hatred, envy and litigation done away among the children of men! Behold a faint picture of human happineſs, which virtue, were it univerſal, would produce a happineſs where nothing is wanting but greater perfection in our nature, and a more laſting, nay, an everlaſting duration!

But alas, the world has at all times, even to this day, exhibited human conduct in direct oppoſition to this pleaſing

pleaſing and deſirable repreſentation. We have not lived to ſee virtue's gentle reign; the earth groans under oppreſſion, and its inhabitants for the greateſt part wear the chains of bondage.

Courts of juſtice are frequently ſcenes of heinous intrigues and other ſecret vices, and often become engines of crying injuſtice. There we behold brethren in diſcord, litigation and ſtrife! Little of humanity is diſcovered in human intercourſe, and mankind have learned to make up for the loſs thereof by the empty ceremonial of etiquette, by the ſhadow of good breeding, and by unmeaning compliments. Where liberty yet upholds her ſtandard, where humanity ſhould ſhine in an amiable diſplay of ſocial happineſs, we find frequent inſtances of illiberality and licentiouſneſs. But why ſhould we enlarge on things which daily offend an obſerver's eye? There is rather cauſe to look to ourſelves, reform what is faulty in our conduct, and take an animated reſolution to do our part, by ſincerely and ſtrenuouſly purſuing virtue, and performing all our duties in the beſt poſſible manner. By ſuch a conduct we may expect the bleſſings and favour of God, advance our own happineſs, and ſpread felicity abroad. Let us thus prepare for that kingdom of peace where unity, joy and happineſs for ever laſt.

CHAPTER IV.

Of the duties of humanity which we owe to others.

SINCE it is the obvious courſe of nature, and of conſequence the wiſe plan of the government of God over the concerns of the human race, that no man can

be happy in a ſtate of ſolitude, but by that kind providence which determined his exiſtence is made immediately dependent upon others, not only for life and the enjoyment of its comforts, but alſo for ſuch acquirements and qualifications as enable him to perform duties to his creator and preſerver, as well as to himſelf, in order to be pleaſing to God and to render his own ſtate happy: it is manifeſt, that it is the will of God that men alſo perform duties to thoſe who are endowed with the ſame rational nature, and inhabit the ſame earth as fellow members of the univerſal ſociety of mankind, of which God himſelf is both the author and the ſupreme ruler and governor.

To this end his laws extend to all men, taking cognizance of all their moral actions: the rules which they preſcribe are deſigned for directing human conduct, and of courſe the actions of each individual of the human race; the precepts and prohibitions thereof are equally intereſting to all who deſire to glorify God and to be happy. It cannot, therefore, be a matter of indifference, how men conduct themſelves with reſpect to one another, whether they make uſe of their talents and gifts, and the opportunities allotted them, for the benefit, or apply them to the hurt and detriment of others.

God is ſo far from giving his gifts in vain, that, on the contrary, he commands all the good we can do to others, and enjoins us by his laws to take motives from his perfections and ways towards the children of men. It is not only by internal acts of piety, but by an upright and irreproachable conduct before men, that we muſt glorify him, and thus excite our fellow creatures to that reverence, love and obedience, which they owe to their creator, preſerver, and ſupreme governor.

As

As rational creatures, daily experiencing and partaking of the diſpenſations of the love, mercy and beneficence of God towards man, we ought to copy from the divine original, by delighting in the happineſs of others, and by uſing all our powers for promoting the welfare of thoſe around us.

Hence it appears, that we have not only duties to be obſerved towards our fellow creatures, but that theſe duties are of the higheſt importance, as ſacred and neceſſary as thoſe which are due to God. How is it poſſible that our religious profeſſions can be ſincere, if we do not endeavour to reſemble the deity, if we feel not affection and love for thoſe who, as well as ourſelves, are the objects of his tender love and regard.

Nay, theſe duties are ſo intereſting and neceſſary, that without a faithful obſervance of them we cannot perform thoſe duties which appertain to ourſelves; for daily experience ſo inconteſtibly evinces the neceſſity of the agency, participation, aid and aſſiſtance of others for the attainment of our own happineſs, that without the one and the other we could have never obtained life or continued therein, much leſs have enjoyed or been partakers of any of its comforts. Any action, therefore, towards others, which may incline them to afford us their neceſſary aid and aſſiſtance, becomes a duty to ourſelves; that, on the contrary, which might induce them to withhold their good offices or obſtruct our happineſs, is injurious to our own true intereſt and repugnant to the firſt principle of natural laws, which commands us, by every juſt and lawful endeavour, to render our ſtate happy.

It is, therefore, moſt evidently manifeſt, that God the creator and preſerver of mankind, has connected the

the individuals of the human race by the natural ties of mutual duties and reciprocal good offices, as well as by identity of nature, wants and inclinations. His government over mankind, which muſt neceſſarily be the moſt perfect, is at the ſame time exceedingly gracious and benign. Human happineſs, in which God will be glorified, is moſt wiſely provided for by laws, which enjoin one common intereſt to all, founded upon the invariable nature of things, whereby *each perſon beſt promotes his own real intereſts and happineſs, by endeavouring as much as poſſible to promote the felicity of all men.*

Upon this plan all natural relations among mortals are founded. Men, by the deſign of their creator and the precepts of natural laws, are veſted with equal rights in caſes where it may be requiſite to expect the help and aſſiſtance of thoſe who are in a ſituation to afford it, for without this human happineſs cannot exiſt. Thoſe who are endowed with faculties, talents and gifts, are, on the other hand, equally under obligations to apply them for the benefit of others, where an opportunity offers for promoting their felicity. Force and compulſion find place only where one hinders another in the uſe and poſſeſſion of his own faculties and gifts, and thus obſtructs his felicity; but not at all where we have to uſe our own powers for our intereſt and the benefit of others: for theſe we are accountable only to God and our own conſciences. We are not here to be directed, in the uſe of our own powers, by the claims or deſires of others, much leſs by force and coercion; but the will of God and our own happineſs are motives ſufficiently ſtrong to incite us to uſe them for the great end for which they are given us, and for which we are placed in the world.

Hence

Hence it appears, that all our duties to others which flow from natural relations, are duties of humanity, which call for the exertion of the nobler faculties of the human ſoul, for a conduct conformable to the will of the Almighty, and becoming the dignity of our nature.

As their immediate object is all that may contribute to the well-being and happineſs of mankind, ſo are all their injunctions uniformly calculated to excite the human heart to the practice of love and philanthropy. Duties of humanity to others are therefore *duties of love:* nay, this virtue is both their ſum and baſis. *Love thy neighbour as thyſelf*, ſays the heavenly precept; which is one of thoſe principles of natural laws which, among others, has obtained the particular ſanction of the will of God, declared in his word, in order to impreſs our ſouls both with the great importance and the neceſſity of a faithful performance, in all poſſible relations, where it is in our power, and where opportunities offer for exerciſing this great duty. In this extent the term *neighbour* is taken in the revelation; and the divine word is juſt in other terms enjoining what the duties of humanity require, to wit, that we ſhould love all men; for how can we love God if we do not love thoſe who are the objects of his affection and care?

We muſt, therefore, feel an intereſting concern for the happineſs of all men, delight therein, and ſincerely endeavour to promote it as much as poſſible; for this is the nature of true love, and one or the other of theſe acts may take place in our conduct towards our fellow creatures, whoſe ſituations and relations are ſuch as render the performance of all of them impoſſible or impracticable. It is here in particular that

that the diſtinction into love of affection, of complacency and of communion ſhould arreſt our attention; for from our own abilities, which in many reſpects are limited to a very ſmall extent, as well as from the various relations and ſituations of others with reſpect to us, it would be impoſſible to love all men, if it were requiſite that we ſhould love them equally and with the ſame degree of concern and affection. To take equal delight in perſons, to conform to their deſires and ways, our duties to God and to ourſelves ſtrictly forbid. There are perſons, relations and ſituations more immediately intereſting to us than others: we meet with ſentiments among our fellow creatures more frequently contrary to than congenial with our own: men differ vaſtly in their conduct, and caſes frequently occur, which create in us diſguſt and merit our diſapprobation: there are ſome who favour our deſigns, whilſt others are unconcerned about our intereſts, or even oppoſe them: both our acquaintance with perſons and our general knowledge of individuals are very much limited, whilſt the greater part of our fellow creatures remain to us utterly unknown. There is indeed no calculation to be made of the various modifications of the extenſive object of love; and the conſequence is, that love in every reſpect muſt be variouſly modified.

Neither can it be the deſign of God that we ſhould love all men with the ſame degree of ardor and affection, or in the ſame manner and to the ſame extent, ſince he himſelf obſerves a difference in the diſpenſations of his providence, and variouſly qualifies the children of men for the reſpective duties of life. All men have the ſame nature, but not the ſame talents and gifts; all

all are inhabitants of the earth, but not of the ſame climate and ſoil; all are liable to wants and infirmities, but theſe are vaſtly diverſified, as well with reſpect to their nature and extent as to their duration; all may contribute to the happineſs of others, but not in the ſame way, degree and extent.

In ſhort, talents and gifts, wants and ſuperfluities, ſituations, opportunities, and other circumſtances in life are ſo diſtributed among the individuals of the human race, and all things ſo ordered, that men may ſupply the wants, alleviate the ſufferings, and in a certain ſphere prove inſtrumental in promoting the felicity of others. What our ſituation and power cannot reach, we may reach by our good wiſhes; where no other power by immediate good offices is left us beſides this, others may have both ability and opportunity to aſſiſt more effectually. We have to act our part and perform our duties faithfully as far as we are able; and there is no doubt but our example will prove inſtrumental in exciting others to emulate our conduct:—Thus, if every one is aſſiduous in the exertion of his powers for the promotion of the intereſt and happineſs of others, love will be effectually extended to all, and univerſal harmony will prevail.

How inſeparably and how nearly has divine providence connected the intereſts of parents and children! How neceſſary is dependence for mutual offices between relatives, between the ſexes, and thoſe who, in the ſtrict ſenſe of the word, are neighbours! for without ſuch proviſion made for life, its preſervation and neceſſary ſupport, human happineſs could not exiſt. Love and affection, attachments and intimacy there reſult from inſtinct, or are paſſions of the human mind which naturally

naturally ariſe from the neceſſary and unavoidable intercourſe with one another, and dictate an aſſiduity to pleaſe, and produce mutual aſſiſtance and reciprocal offices ſo neceſſary for the being and welfare of mankind. But let it be remembered, that they are ſtill effects of natural inſtinct or acquired habits, and only ſo far conſiſtent with human happineſs as their direction and extent are conſiſtent with that noble virtue which the natural laws enjoin as the firſt duty of humanity. If parents truly love their children, their natural fondneſs muſt often give way to the exerciſe of parental authority, wounding their tenderneſs as much as it bears hard upon the humours and caprices of children. In one word, the duty of love is to be the directrix of all the intimate ties of blood and affections, as well as every relation of life, however diſtant and remote: we are not to accommodate ourſelves to the ſentiments, deſires and expectations of others, except it be in caſes where they agree with the dictates of natural laws, where conſequently compliance is in our power and conſiſtent with our duties to God and to ourſelves: if the contrary ſhould be the caſe, our love to others enjoins, that we conduct ourſelves quite otherwiſe than they may expect, that we even croſs their deſigns and incur their diſpleaſure.

Whatever, therefore, the relations of life and the diſpoſitions and deſires of our fellow creatures may be, the duties of humanity enjoin true love towards them, and require that we endeavour as much as poſſible to promote their true intereſts, and thereby advance their real felicity.

Little as inſtinctive love, or habitual attachments ariſing from familiarity or an unavoidable intercourſe with

with others, ought to be taken for the excellent duty of love, ſo little does this virtue conſiſt in that natural tenderneſs and ſenſibility of heart, which, as it is effected by a certain ſtate of the nervous ſyſtem, proceeds from the conſtitution of our body, and is known by the term *good nature.* All that can be ſaid of either of them, and more particularly of the laſt, is, that they are only ſo far innocent and ſalutary, as they are under the guidance of reaſon, and directed by that ſincere deſire to promote the happineſs of others wherein true love conſiſts.—Good nature may be particularly conſidered as a natural diſpoſition, exciting us to the exerciſe of the duty of love to others, but is far from being love in itſelf; for, independent of a poſſibility that this eaſy diſpoſition is liable to impoſitions and miſtakes, and has frequently proved ruinous to its poſſeſſors and others, it is very evident, from the principles of natural law, that we have neither to depend upon the ſentiments and deſires of others, nor upon our own feelings, where our duty requires obedience to the laws of God and a ſolicitude to take our motives from his holy perfections and ways towards the children of men.

Sch. 1.—We ought to guard againſt the childiſh opinion ſo much in vogue in human intercourſe, by which all that is agreeable to our notions and deſires is taken for love, and the oppoſite thereof for diſaffection or hatred. Thus ſhameful neglect of duty, ruinous indulgence, flattery, hypocriſy, &c. meet with approbation and a welcome reception; whilſt the reproofs, admonitions, counſels, exhortations and expoſtulations of parents and friends paſs for auſterity, ill-nature, diſeſteem, and want of affection.

Sch. 2.—Want of complaiſance is a great fault in the human character; but complaiſance may be carried too far, and prove to be the ruin both of ourſelves and others.

If our own feelings have no controul over the exerciſe of the duty of love, it is evident that we muſt even

love our enemies; for, from the law of nature and the precepts of the goſpel as well as from the very nature of love, it can be proved, that every thing which is good, excellent and deſirable in itſelf, or wherein there is any thing of this kind, is an object of our concern, deſire and affection. Let us ſuppoſe perſons to be our enemies, ſavages, barbarians, drunkards, profligate characters; we confeſs there is no poſſibility to feel complacency in their conduct; but ſtill we can and ought to love their perſons; they are men, rational creatures endowed with human nature, our fellow citizens on earth, fellow ſubjects of the ſupreme government of the Moſt High: the ſame laws which enjoin unto us obedience to the will of God, in order to obtain his favour and our own happineſs, impoſe on them the ſame duties towards us that are required at our hands towards them.

There are indeed many weighty cauſes why we entertain a greater affection for our neareſt relatives and neighbours, for friends, and perſons of a virtuous conduct in life, for acquaintances, townſmen, countrymen, &c. than we commonly feel, or can feel for ſtrangers, enemies, profligate or wicked characters: but there is not one juſt cauſe why we ſhould hate or entirely withhold our love from the latter. If we are duly impreſſed with an eſteem for the dignity of human nature, we will regard it in others; if we think it neceſſary to conduct ourſelves conformably to the will of God, we will eſteem it as a duty to love all men.

From what has been hitherto explained, it is manifeſt, that love undergoes innumerable modifications, keeping pace with the various relations, ſituations, diſpoſitions, tempers, qualities and modes of conduct amongſt men.

In

In conſequence of theſe modifications, love is diſtinguiſhed into many virtues, the moſt principal of which are denoted by particular terms: love, when it embraces the concerns of the whole human race, is called *philanthropy:* a heart animated by this virtue wiſhes well to and thinks well of all men, and is amicably intereſted both in their proſperity and adverſity. Philanthropy has therefore for its concomitants the amiable virtues of *univerſal benevolence*, *charity* and *ſympathy*.

Acts of univerſal benevolence, exerciſed to foreigners and ſtrangers, who happen to come within the ſphere of our knowledge or agency, conſtitute *hoſpitality*.

Love to our country, that is, the virtue of *patriotiſm*, not only enjoins, that we ſhould feel the utmoſt ſolicitude for the proſperity, ſafety and preſervation of the rights of our country againſt all external and internal violence and machinations, but alſo requires a particular regard for the perſons and concerns of our fellow citizens. How becoming are acts of friendſhip to thoſe who are our fellow citizens, connected with us in one common intereſt! Love here enjoins the duties of *civility*.

Love, in the diſtant relations of citizenſhip, enjoins, according to different ſtates and circumſtances of life, the various acts of friendſhip and civility expreſſed by the terms *reſpect*, *eſteem*, *affability*, *regard*, *generoſity*, *politeneſs*, *meekneſs*, *lenity*, *complaiſance*, &c.

In the nearer relations of acquaintance, the laſt mentioned duties ought to be performed with a ſtill higher degree of affection and complacency, becauſe they more nearly concern our intereſt, and are highly neceſſary for ſweetening and endearing that daily intercourſe which our relative ſituation renders unavoidable.

Among

Among relatives and thoſe who are the conſtituent members of families, there ought to reign the higheſt poſſible affection, exerciſed by the moſt ſincere *faithfulneſs*, an unalterable *attachment*, a particular *tenderneſs* and rational *friendſhip*.

Sch.—How ſincere, prudent, faithful, &c. ſhould be the love of parents to their children! How affectionate, grateful and obedient ſhould be children towards their parents! What ornaments are gentleneſs, moderation and reaſonableneſs to heads of families! How deſirable are faithfulneſs and obedience in thoſe who are under their command and care!

Human miſery calls for love of *compaſſion* in various degrees, which is to be exerciſed by acts of *charity*, *benevolence*, *humanity* and *philanthropy*.

That proſperity may attend the ways of our fellow creatures, is the wiſh of a heart filled with benevolence and love; we ſhould therefore feel *ſatisfaction*, and even *exult* in the welfare and happineſs of another.

The virtuous and upright man ought to poſſeſs our heart, be high in our eſteem, meet with our countenance and applauſe; whilſt a friend deſerves our confidence; a benefactor our ſincereſt gratitude.

The diſorderly, the profligate, the wicked leave room for *pity* and *compaſſion*; the enemy for *forgiveneſs*, *forbearance*, *moderation:* where there is no merit we may exerciſe *generoſity:* perſons who have contracted demerit and guilt, have yet a claim to our *humanity*, to *magnanimity*, *grace* and *mercy*.

Nay, there is no ſtate, no ſituation, no relation in life, where we may not exerciſe the duties of love and humanity.

It is therefore criminal in us not to love our fellow creatures: it is an act of the greateſt inhumanity to *hate* them.

Hatred

Hatred is the oppoſite of love, and conſiſts in envying our neighbour's happineſs, or endeavouring to render his ſtate miſerable.

As we ſhould endeavour to love all men, ſo it is our duty to beware of envying or hating any perſon, or of giving any occaſion why they ſhould envy or hate us; for, in either of theſe caſes we tranſgreſs the laws of nature, and render our ſtate unhappy.

Thoſe who hate us are called our *enemies:* the criterion of friendſhip is love.

It is a duty that we entertain friendſhip for all, and be at enmity with none.

Friendſhip, a proclivity to love others, is diſtinguiſhed into *internal* and *external.* Internal friendſhip conſiſts in an inward and ſincere deſire to render the ſtate of others happy; external friendſhip comprehends acts declarative of that intention.

Since it is our duty to love all men, it follows, that we are under a moſt ſacred obligation to exerciſe internal friendſhip to all, even to enemies and the moſt wicked and profligate perſons; for they are men, and therefore objects of our love.

But external friendſhip may often become both phyſically and morally impoſſible; that is, acts declarative of the friendly diſpoſition of our heart may not be in our power, or may be contrary to our duty.

True and laſting friendſhip is one of the greateſt comforts of life, and is only to be expected among perſons of virtuous conduct and intentions. Powers may fail to give ſufficient vent to the tender ſentiments of the heart; but it never can be contrary to duty to make a true friend a perfect confident, a partaker of all

all our concerns, and to exercise towards him every act of friendship in our power.

Among the various duties which are due to an enemy, remember this as particularly requisite, to endeavour, by all just and lawful means, to *soften* his resentment; that is, to cause a high degree of his hatred to become less; for the greater his hatred and animosity towards you, the more he will be determined to do all he can to your detriment, the greater consequently is your danger; but by weakening his resentment the danger will be diminished, and your state in that respect rendered less imperfect. The same argument likewise proves the duty of making him your friend, as far as it is in your power and consistent with your duty.

External proofs of friendship consist principally in lending to others our aid and assistance: we aid and assist if, by our agency, another is caused to obtain his end. As it is our duty to befriend others, it follows, that it is also a principal duty to aid and assist them in all cases where our assistance is wanting and where the end is lawful. Where assistance is not in our power, we are justified in making excuses: where the end proposed is unlawful, or where it may be attained without our aid, there duty warrants a refusal; for it can never be our obligation to do a thing that is unjust or unnecessary.

Sch. 1.—He, therefore, who has it in his power to help himself, has no reasonable claim to our aid and assistance.

Sch. 2.—We may aid and assist in as many different ways as we may become the moral cause of the actions of others; for in all actions which take place in consequence of our assistance, the effect is to be attributed to our will: by aiding and assisting, therefore, we claim merit in all good actions done by others, and contract demerit in all that are of a contrary nature.

A pro-

A proclivity of the mind to aid and aſſiſt others is called *benevolence* in the reſtricted ſenſe: actions declarative of benevolence conſtitute *beneficence:* the author of ſuch actions is ſtiled *benefactor*.

As benevolence is the ſoul of internal friendſhip, ſo beneficence is the effect of that which is external: benevolence conſequently is unlimited in its nature and extent; but with reſpect to beneficence, it is requiſite that it be in our power, and regulated by our duty and other circumſtances.

To be the benefactor of mankind, is to be in a manner to our fellow creatures what God is to the human race.

Love to a benefactor is *gratitude*; all motives for love are therefore motives for gratitude, and each benefit received ſhould impreſs the ſoul with grateful ſentiments, and engage us to expreſs them by ſuitable actions towards our benefactors. Ingratitude, want of love, or hatred towards a benefactor, is beyond expreſſion horrid, inhuman and unnatural.

Sch.—It is therefore a very humiliating ſpectacle, manifeſting the great corruption of the human heart, when we ſee men ungrateful to their maker and preſerver; children to their parents; citizens ungratefully abuſing the bleſſings of peace and of liberty, &c.

Before we conclude this chapter, we think it neceſſary to remind the reader, that what has been obſerved of friendſhip and benevolence, with reſpect to the diſtinction of the internal ſentiments of the mind from the external acts declarative of them, holds good in all other duties of love and humanity. A concern for and an endeavour to promote the happineſs and mitigate the ſufferings and miſery of others, we can

can and ought always to feel; but it may not be in our power, or it may be inconſiſtent with our duty, both in reſpect of our ſituation, and the particular circumſtances wherein our neighbour is placed, or often places himſelf by indiſcreet and improper conduct, to participate with him, and to aid and aſſiſt him as we might otherwiſe wiſh. We cannot, for inſtance, forgive an injurer at the coſt of a neighbour, or of our country: we may not ſhew lenity where its effects countenance vice. Parents, who truly love their children, muſt often wound their own feelings, and reſort to means of a diſagreeable nature. God himſelf chaſteneth thoſe whom he loveth.

It remains for us to ſpeak of the means by which the knowledge and practice of theſe duties may be greatly facilitated. With reſpect to the former, it will not be amiſs to liſten to the voice of nature, to ſtudy carefully the natural principles of morality, to read thoſe books which treat of our duties in life; but, as there is not, and indeed cannot be a more pure and perfect ſyſtem of morality than the *goſpel*, and as the duties of chriſtianity exhibited therein are thoſe of humanity, ſtrengthened by the pureſt and moſt powerful motives, and ſanctioned by the expreſs will and command of our divine Redeemer, we ſhould be highly culpable if we were not ſolicitous to conſult daily this heavenly monitor, in order to learn with the greateſt poſſible conviction, what is our duty in every circumſtance of life. There is not a more pure and perfect pattern to copy after than the author of that goſpel, the author and finiſher of our faith, who forgave his moſt cruel enemies, and has ſo loved mankind that he has given himſelf for them.

He

He has loved men more than himſelf, and commands that we love our neighbour as ourſelves; that we ſhould be ready and willing to do unto others as we wiſh they ſhould do unto us.

Sch. 1.—We ought conſequently to *think well* of our neighbour, not to give an eaſy ear to backbiters, nor countenance the tongue of the ſlanderer: when truth and a conviction thereof forbid the exerciſe of univerſal benevolence towards him, charity and ſympathy command, that our hearts feel ſorrow and regret. To delight in the faults and in the wretchedneſs of others, is a ſure ſign that true love is yet a ſtranger to the heart.

Sch. 2.—We ſhould *ſpeak well* of our neighbour, acknowledge his merits, honour his virtues: is his conduct ſuch that we muſt ceaſe to commend his actions, we ought to conſider the faireſt ſide of his character, and feel heartily ſorry when we can no longer praiſe him. To commend and diſcommend are things very different: a loving heart throws a cloak over all faults, which no higher duty commands to reveal; that which is deſtitute of love ſports with the foibles and faults of another. There is no vice more inhuman than ſpreading the tale of actions, which, if done by ourſelves, we would wiſh buried in eternal oblivion; becauſe truth is here frequently mingled with untruth: other intentions are often ſuggeſted than were entertained by the unfortunate author; foibles are made faults, and theſe are again transformed into vices. Suppoſe all were true, who is edified thereby? certainly no perſon: but ſuch a conduct is always attended with bad conſequences: the voice of calumny ſteels the heart of the calumniator as well as thoſe who give him countenance againſt that love which we ſhould have for all. Many temptations are avoided by our thinking well of others; and thouſands would not be thought or heard of, were it not for idlers, who buſy themſelves abroad whilſt they neglect their duties at home: pretending an acquaintance with every perſon's ways, they remain ſtrangers, entire ſtrangers to their own folly and their own hearts.

Sch. 3.—We ſhould finally do all the good we can to advance the comforts, the intereſts and felicity of others, to ſpread the balm of conſolation and extend relief as far as poſſible.

Thus our life will be a general bleſſing on earth, our conduct ornamental to ſociety, whilſt our nature attains to the higheſt excellency, a conformity to the will and ways of God.

CHAPTER V.

Of the duties of neceſſity.

WE may neglect duties which we owe to others either by not directing our powers, faculties, talents and gifts for the advancement of their happineſs, or by applying them to their detriment, hindering and diſturbing them in the uſe and poſſeſſion of their powers and faculties, by which they might promote their own intereſts. In either of theſe caſes we act contrary to our duty, with this difference, that in the former we ſin againſt the dictates of the imperfect laws of nature, act inconſiſtent with the imperfect rights of our neighbour, and omit thoſe acts by which we ſhould endeavour to render his ſtate more happy: in the latter, we render his ſtate more unhappy, tranſgreſs laws, and act contrary to rights which are perfect.

An action done or omitted contrary to the imperfect laws of nature, and repugnant to the imperfect rights of our neighbour, we call a *breach of duty*; that which is contrary to perfect laws and rights, is *an injury*.

Sch. 1.—The criterion of a perſon internally honeſt and upright, humane and conſcientious in his conduct, is, that he guards as much againſt a breach of duty as he is averſe to doing an injury; for he acts principally from a ſenſe of his internal obligations, regulates his conduct conformably

ably to the dictates of perfect laws, and carefully regards the precepts of those which are imperfect.

Sch. 2.—Not every omission of what is deemed a duty of humanity is immediately to be construed into a breach of duty; for innumerable cases may occur, where a collision of duties superfedes the performance of those which are not as highly obligatory as others with which they happen to clash. We may deny the poor charitable assistance, when our household stands in need of those things which are required for that assistance.

Sch. 3.—In all cases where duties of humanity to others clash with perfect duties, the latter supersede the former; for perfect duties proceed both from internal and external motives; the obligation is therefore stronger. By neglecting a duty of humanity, we transgress imperfect, but by neglecting a duty of necessity, we sin both against imperfect and perfect laws.

Add to these considerations, that by neglecting a duty of necessity, we render ourselves liable to force and violence, which our neighbour has a perfect right to use; the consequence is, that we render our state imperfect.

We may not lend money which is due to others: when it is our duty to administer justice, we may not take considerations from the principles of humanity which might counteract impartiality: we may not, in any respect, do evil that good may result therefrom.

Sch. 4.—As a strict adherence to the duties of humanity on our part may prevent the exercise of the perfect right of which our neighbour is possessed, so a careful observance of them is necessary for exercising perfect rights and performing the duties of necessity in the best possible manner. We may claim our due in a rough or in a gentle manner. We may exercise justice impartially, though it be administered with as little rigour as possible. Where we cannot spare, we may feel and shew pity and compassion, &c.

If an action done or omitted contrary to perfect laws and rights is an injury, it is plain, that no person can be injured except he be hindered and disturbed in the use and possession of his own; for it is only in this that he can have a perfect right.

To

To prove that we have ſuſtained an injury by another, we muſt confirm two truths: firſt, that the thing in which we pretend an injury to be ſuſtained is our own; ſecondly, that we have been hindered in the uſe and poſſeſſion thereof by the agency of another.

Sch.—Every evil we ſuffer from others cannot, therefore, be conſidered as an injury.

It is a perfect duty, that we *do no injury to any perſon*; for perfect laws enjoin that we ſhould not invade the perfect rights of another.

Since we do not invade another's perfect rights if we give him his own, it follows, that the duty which enjoins us to do no injury to another, requires that *we give every one his own.*

We *prevent an injury*, if we make uſe of all lawful means in our power, ſhort of violence and compulſion, to diſſuade others from hindering or diſturbing us in the uſe of our own: we are ſaid to *repel* an injury, if we reſort to force and violence for the purpoſe of averting it.

Since it is a duty not to ſuffer ourſelves to be hindered or diſturbed in what we have a perfect right to direct for the promotion of our own felicity, it follows, that it is a duty which we owe to ourſelves and others, if poſſible to prevent, or, ſhould this fail, to repel an injury.

Sch. 1.—As the duties of humanity, of love and benevolence dictate all poſſible care for the prevention of injuries, ſo a ſtrict adherence to them, in all our conduct, will be the beſt mean to ſecure us againſt the ſhafts of calumny and other injurious attempts prejudicial to our life, property, character, and good name.

Sch. 2.—However proper theſe means may be, when we have to do with perſons who are not deaf to the voice of reaſon, they ceaſe to be means with thoſe who are carried away by paſſion, and are obdurate and inſenſible to their duty; for

for they will not produce the propoſed end: force and compulſion muſt be reſorted to, and exerciſed to ſuch a degree as will cauſe the aggreſſor to deſiſt from his injurious intentions and conduct.

Sch. 2.—The right of repelling an injury extends to ſuch means as are ſufficient for averting it; thoſe which are more violent than is requiſite for that end, are improper and unlawful.

The two propoſitions, *do no injury*,—*give every one his own*, may be conſidered as the firſt principles of all perfect laws which regulate the conduct of men.

Things are our own, either by *nature*, as life, ſoul, body, our members, health and abſolute natural rights, or by *acquiſition*, as accompliſhments of the body and ſoul, honour, character, eſtate, and all acquired rights both in things and in perſons. There are therefore various ways in which we may do or ſuffer an injury.

Hence it is, why civil laws diſtinguiſh them into various claſſes, each of theſe into many kinds, and each kind into different ſpecies. Theſe claſſes, kinds and ſpecies are formed into general and ſpecific laws, under which each injurious action is reſpectively brought, in order to determine the degree of its demerit, and the manner in which remedies are to be applied, that the injured may obtain juſtice.

Sch.—We need not therefore be ſurpriſed at the multiplicity of civil laws; nor ought we to give an ear to thoſe who diſclaim either the practicability or neceſſity of reducing laws to firſt and invariable principles, and the ſtudy of them to ſcientific rules.

There can be no injury conceivable, or it muſt ultimately proceed from a violation of both the aforementioned principles of perfect laws. The following two

two inſtances, which we ſhall give of general laws deduced from them, will ſhew the eaſy mode of deduction, and ſerve to lead us to the knowledge of the ſpirituality of laws.

The law, "thou ſhalt not kill," reduced to the principle, "do no injury," is this general rule, *do not injure thy neighbour's life.* Whatever therefore is injurious to the life or health of our neighbour, or endangers either one or the other, is repugnant to the law, "thou ſhalt not kill."

If we refer it to the principle, "give every one his own," we find that it enjoins upon us a care for our neighbour's life and health, and requires our protection and aſſiſtance, if one or the other is in danger.

The law, "thou ſhalt not ſteal," referred to thoſe general principles, prohibits, on the one hand, all manner of violence, hurt, damage, fraud, &c. by which our neighbour may ſuffer injury in his property; and, on the other, enjoins, that we afford aſſiſtance if it is in danger, and make diſcovery when we know it is purloined, &c.

Sch.—There are, beſides theſe conſiderations, innumerable modes in which injuries may be committed and ſuſtained: in ſome, an agent may act culpably, in others maliciouſly. Laws juſtly make diſtinctions not only with reſpect to the nature and effects of injuries, but likewiſe to their immorality, reſulting from the intention of the injurer. There is on this account a vaſt difference made between the puniſhment of man-ſlaughter and that of murder, &c.

By *damages* we underſtand evils ariſing from injuries.

Damages are diſtinguiſhed into *immediate* and *mediate*; the former are the immediate, theſe the more diſtant and remote effects of injuries.

Immediate

Immediate damages are eaſily perceived by the natural effects which injuries produce at the time when they happen or are diſcovered: for inſtance, the forging or paſſing a falſe note, at the value of ten pounds, cauſes the receiver a loſs of ten pounds.

Mediate damages are the remote and general conſequences of an injury: for inſtance, the ſtealing a horſe, ſeed, or plough, or an eſſential part thereof, particularly in a place or under circumſtances where the loſs cannot be immediately ſupplied, is in its immediate conſequences not ſo conſiderable as in thoſe which are remote: conſider, that the owner of the horſe, of the ſeed, &c. cannot ſow; the conſequences will be, that he cannot reap, cannot ſupport his family, or ſtand to other weighty engagements.

In civil ſociety, great ſtreſs is to be laid upon the conſequences, to which actions lead, and which they would produce ſhould they become general; if forging becomes common, no note will paſs; if ſtealing or deſertion become general, there is no ſecurity for property, no poſſibility of defending the country.

Sch.—Civil laws are therefore juſtly ſevere in puniſhing actions which are dangerous in their remote and general conſequences.

To prove a damage, it is not ſufficient to make it evident that another has been the author of an action which has cauſed us inconveniency or loſs; but we muſt alſo make it appear, that the action complained of is an injury.

The ſame duty which enjoins us not to do injury to any perſon, forbids doing damages.

We

We make *reparation* for injury or damage, if we cauſe the evil ariſen therefrom to ceaſe.

It is a perfect duty that we make reparation for injuries and damages; for it is our duty to commit neither the one nor the other; but as long as evils ariſen and ariſing from injuries are ſuffered to remain, ſo long injuries continue, and ſo long we ſin againſt the laws, "do no injury,—give every one his own." The dictates therefore of natural law forbidding injury, and enjoining us to give every one his own, likewiſe command the reparation of injuries and damages.

Hence it follows, that reparation is to be made according to the law, "give every one his own."

It is in two ways that this law may be ſatisfied; either by returning another's own in kind, or, where that is impoſſible, by an equivalent.

If we give to the injured perſon his own in kind, we are ſaid to make *reſtitution*; if we give him an equivalent, we make *ſatisfaction*.

In all caſes where reſtitution is poſſible, ſatisfaction cannot paſs for full reparation, except it meet the conſent of the party aggrieved; for ſatisfaction is only a ſubſtitute for reſtitution, where, in the nature of things, the latter is impoſſible.

Damages, for which no reſtitution or ſatisfaction can be made, are ſaid to be *irreparable*; thoſe for which either the one or the other can be made, are *reparable*.

Sch. 1.—To kill a parent is an irreparable damage to children; ſo the taking away the life of a child is an irreparable loſs to parents. To betray the virtue and innocence of perſons is a high crime, and the damages irreparable!

Sch.

Sch. 2.—In the ſtricteſt ſignification of the term, and in conſequence of the nature of things conſidered in themſelves, nothing ſhort of reſtitution can be a reparation. Human laws may be ſatisfied by fines and conſiderations of intereſt, but certainly not the laws of God: it cannot be right that the wealthy ſhould ſport with the rights of others, becauſe they poſſeſs advantages which others have not.

It is then a perfect duty, that we make reſtitution for injuries and damages if poſſible; if otherwiſe, we muſt make ſatisfaction; for we are bound to cauſe the evil ariſen from injuries to ceaſe.

The greater the damages are, the greater are the injuries from which they reſult; for the degrees of the material morality or immorality reſult from the conſequences of moral actions.

Sch.—A thief who ſteals a hundred pounds does a greater injury than one who ſteals a hundred cents, &c.

But there are alſo various degrees of heinouſneſs in injuries, where reference is had to the will and intention of the agent.

Sch.—One may injure inadvertently, culpably, or maliciouſly.

Damages, therefore, with reſpect to the intention of the agent, are diſtinguiſhed into *caſual*, *indirect*, and *direct*.

Caſual damages are conſequences not proceeding from a moral cauſe; as, from lunatics, infant children, brutes, and inanimate things.

Indirect damages proceed from injuries which are done culpably, by inattention, improvidency, precipitancy, or careleſſneſs: thus, damages done by lunatics, madmen, children, brutes, and inanimate things, may become indirect with reſpect to him who had the care of either the one or the other of them, and who knew

their miſchievous diſpoſition or dangerous condition, and did not all in his power to prevent the evil conſequences.

Direct damages are done deliberately, intentionally and maliciouſly, and are therefore peculiarly heinous, according to the various degrees of malice.

As, therefore, caſual damages excuſe from reparation, and as indirect injuries, on the contrary, bind thereto, it is plain, that in the caſe of direct injuries and damages, beſides reparation and ſecurity, the laws may order puniſhments according to the degrees of malignity in the conduct and intention of the injurer.

We have a perfect right to compel reparation, for we have ſuch a right to avert and repel injuries: but injuries continue until reparation is made; the ſame right, therefore, which juſtifies us in repelling an injury, warrants all neceſſary means for forcing the injurer to make reparation.

We are ſaid to *remit* our right, if we declare that we will not exerciſe it.

Remittance of injury among private *perſons* is *forgiveneſs*; forgiveneſs proceeding from authority, with reſpect to private perſons, is *pardon*. Remiſſion of right to demand and compel damages declared by government, is known by the term *amneſty*.

As our rights are our own, we cannot injure a third perſon by remitting or by lawfully exerciſing them.

If a third perſon ſuffer damages in the lawful exerciſe of our right, the injury and damage muſt be charged to him who has provoked the exerciſe of that right, that is to ſay, to the injurer.

Sch. 1.—By cauſing the impriſonment of a debtor, or compelling payment, an innocent wife may loſe her patrimony, innocent children their ſupport, &c.

Sch. 2.—It is to be obſerved, that he is not always the injurer who firſt makes uſe of violence; but he undoubtedly is, who is the cauſe and has unjuſtly provoked the exerciſe thereof.

That reparation is *proportionate*, in which no more is demanded and exacted than is ſufficient to cauſe the evil conſequences of an injury to ceaſe.

By exacting leſs, we ſhow favour and generoſity.

By uſing more violence than is neceſſary for reparation, we diſturb another in the uſe and poſſeſſion of his own without a juſt cauſe; the conſequence is, that in ſuch caſes we commit injury and damage as far as our exaction exceeds the damages ſuſtained.

Sch.—In all acts of violence, however, allowances are to be made, in favour of the proſecutor, for accidental waſte and warmth of reſentment; becauſe both the natural and unavoidable conſequences of injuries muſt be charged to the author of them, not to him who is under the neceſſity of exerciſing a diſagreeable right.

Damages may be done by a number of perſons collected together: in ſuch caſes, how ſhall reparation be made? The principles of nature dictate, that each perſon is to pay his quota of damage, if he is able and it can be aſcertained. Where the quota of damage done by each perſon cannot be aſcertained, the whole company, at leaſt thoſe who are able, are to make reparation for the whole: if all are not known or unable, thoſe who are known and able muſt ſtand for the reſt: for, in theſe caſes, thoſe who aſſociated in miſchief had the choice of their company, at leaſt all who had a hand in it ought to have informed themſelves both with reſpect to perſons and circumſtances.

Sch.

Sch.—To take one for all, in cases where all or a number of them are both known and able to make full reparation for injury, is a way of procedure not altogether consistent with the principles of natural equity.

CHAPTER VI.

Of the rights of defence and war.

BESIDES *actual* injuries and damages treated of in the preceding chapter, there may be such as are impending; for in many cases it would be both imprudent and unsafe to delay our right of repelling injuries until they should have actually taken place. We have a right to enjoy our own in security: a state of fear and apprehension of danger is so far from being happy, that it frequently renders us uneasy and miserable: we may therefore be justly said to be injured, if another shews an inclination to disturb us in the use and possession of our own. Such an inclination shewn, we call an *impending injury*, and the evils arising from it are *impending damages*.

The greater the damages of an impending injury, the greater is the injury.

Sch.—There is a vast difference between the cases, where one meets us in a threatening posture with a clenched fist, or with sword or pistol in hand.

He who actually disturbs us in the use of our own, or shews an inclination to do so, is called an *aggressor*; the act itself is stiled an *aggression*; and he against whom the injury is levelled or intended, is the party *aggrieved* or *aggressed*.

If we bring evils upon an aggreſſor with an intent to ſtop the further progreſs of an actual, or to avert an intended injury, we are ſaid to *defend* ourſelves.

Sch.—Here we underſtand *violent* defence, where recourſe is had to force and compulſory means; not that where we make uſe of arguments with an intention to ward off the imputation of a fact laid to our charge.

Defence cannot be juſt where there is not a juſt cauſe; for by doing violence to another without a juſt cauſe, we unjuſtly diſturb him in the uſe and poſſeſſion of his own, and commit an injury, becauſe we act contrary to the dictates of natural law.

Where there is neither actual nor impending injury, there cannot be a juſt cauſe for defence.

We are ſaid to *prevent an aggreſſion*, when we uſe officious means, lawful in themſelves, but not violent in their nature and conſequences, for the purpoſe of inducing another not to entertain a deſire or ſhew an inclination to injure us or to become an aggreſſor.

Well founded arguments, proving the juſtice of our conduct and intentions towards another, or ſetting in a proper light the injuſtice of the meaſures purſued by him, together with their fatal tendency to diſturb our peace and ſecurity, may have great weight with thoſe who, open to conviction, are not intoxicated by paſſion, or carried away with haughtineſs and ſelfiſh views of ambition: but where juſtice and truth are diſregarded, the beſt mean for preventing aggreſſions is doubtleſs to put ourſelves in a proper ſtate of defence, and ſhew both vigilance and vigour in aſſerting and maintaining our juſt rights.

It is more conſiſtent with the principles of humanity, more ſafe, and conſequently more politic, that we endeavour

endeavour to prevent an aggreſſion, than purſue a contrary conduct, by which we might be precipitated into violent meaſures.

The party aggrieved has a juſt right of defence; for he either ſuſtains an aggreſſion or is under the fear of one, and conſequently in a ſtate where he may lawfully make uſe of forcible means either to ſtop the progreſs of an actual or to avert an impending injury.

We may not reſort to the right of defence if no aggreſſion has taken place; that is, where there is no actual or impending injury.

As certainty is very difficult to be attained in matters of fact, particularly in caſes where the motives and intentions of the agent are to be proved, it follows, that the eſtabliſhment of an aggreſſion with reſpect to an impending injury, muſt neceſſarily give occaſion to doubts and controverſies; for it is poſſible, that an impending injury may be certain or probable, or may only be pretended.

With reſpect to aggreſſion, we have therefore to attend to certain particulars, which, either in their nature or by the cuſtom and conſent of mankind, carry with them the criteria or the prognoſtics of the intentions of another perſon. If ſuch particulars take place, there is a poſſibility of coming to as much certainty as the nature of the thing admits of, and we may in that reſpect poſitively know whether an injury is intended or not.

An open avowal of an inclination or deſign to injure or diſturb us, leaves no doubt but that aggreſſion has already taken place; and a diſavowal does not in every caſe amount to a proof that no injury is intended.

There

There may be circumſtances particularly notable with reſpect to matters of fact, from which probable concluſions can be drawn of the intention of the agent. We may therefore form an idea of a *probable right of defence*, which takes place when there is a concurrence of notable circumſtances, from which collectively we ſee ſufficient cauſe to apprehend an aggreſſion.

Sch.—Suppoſe rival nations, of which the one is diſcovered to be buſy in exploring the coaſts and harbours of the other, being at the ſame time deeply engaged in refitting its navy, recruiting its army, building or repairing fortifications, and making alliances; would not the other have cauſe to apprehend an aggreſſion, and be juſtifiable in taking meaſures for defence?

It ought, however, to be well obſerved, that the greateſt probability may be falſe; many aggreſſions, therefore, are only pretended, and defence is often nothing but clandeſtine injury and aggreſſion, under the maſk of a neceſſary and lawful exerciſe of a juſt right.

Sch.—Jealouſies, ambitious ſchemes, ſubterfuges, ſo common in national governments, may blind the eyes of individuals or other nations, but cannot take away the injuſtice of their bloody meaſures, nor their reſponſibility to God.

He who juſtly defends himſelf, exerciſes his own right; he may cauſe hurt to a third perſon, but cannot be charged with damages, nor held to make reparation, for this plain cauſe, that in exerciſing his own right he does not commit an injury.

If, therefore, a third perſon ſuffer hurt, it muſt be charged as a damage to the aggreſſor; for he is the moral cauſe of all the natural and unavoidable conſequences flowing from the juſt exerciſe of the right of defence.

The

The aggreſſor, therefore, is bound to make good all damages ſuſtained by a third perſon from the juſt exerciſe of the right of defence, for which he has given cauſe and provocation.

Sch.—We muſt, however, well conſider, that only ſuch loſſes and inconveniencies are chargeable to the aggreſſor, as cannot be avoided in juſtly exerciſing the right of defence. Making allowances, as we have already mentioned, for unavoidable waſte, we muſt charge the defender with all that is done wantonly or unneceſſarily: in theſe caſes he may have a juſt right of defence, but he is far from exerciſing it juſtly.

He who hinders us in the juſt exerciſe of the right of defence, diſturbs us in the uſe and poſſeſſion of our own, commits an injury, and is bound to make reparation.

The right of defence involves the right of preventing aggreſſion. We prevent aggreſſion by the ſame conduct and means by which injuries are prevented.

Sch.—Remember, that putting ourſelves into a proper ſtate of defence, is found to be one of the moſt powerful arguments for preventing inſults and aggreſſion.

Defence may be juſt with reſpect to its cauſe, and ſtill unjuſt with regard to the mode in which it is conducted. On the other hand, defence may be conducted in a proper mode, &c. and ſtill be unjuſt with reſpect to its cauſe.

Sch.—Defence which has not a juſt cauſe, can never be rendered juſt, though it be conducted in the beſt poſſible manner; for it is in itſelf an injury and an unlawful aggreſſion.

With reſpect to the juſt mode of conducting defence, we diſtinguiſh both means and the uſe of them into lawful and unlawful.

Defence

Defence is juſtly conducted, if the means are lawful and lawfully uſed; for nothing can be juſt that is repugnant to the dictates of natural law.

Thoſe means are lawful which are not unnatural in themſelves, nor diſproportionate to the purpoſes of a juſt defence.

We call thoſe means *unnatural* which are inconſiſtent with the ends of juſt defence.

The ends of juſt defence being ſecurity and peace in the uſe and poſſeſſion of our own, it follows, that ſuch means as render, among other things, life in the higheſt degree inſecure, are contradictory to the very nature of defence, and are juſtly called unnatural.

Sch.—Among the unnatural means of defence is aſſaſſination, poiſoning and perjury; for, independent of the horrid internal malignity of ſuch actions, there would be an end to all ſecurity and truſt, as well as to a poſſibility of making uſe of the right of defence, if ſuch practices ſhould become general. As this moſt certainly will be the caſe, if any one who has the right of defence, or pretends to have it, might uſe ſuch means, there would be no poſſibility of preventing others from following the fatal example. Indeed, no man's life would be ſafe.

Means unlawful, becauſe they are *diſproportionate*, are ſuch as are calculated in themſelves to bring more evils upon the aggreſſor than are neceſſary for averting the aggreſſion.

The proportion of means, or the contrary thereof, muſt be eſtimated by the nature and circumſtances of the aggreſſion; for inſtance, a ſword is a proper mean of defence, if the aggreſſor invades us with a weapon of that kind, but is far from being ſo againſt one who attacks us with his fiſt.

Sch.—It would be murder, not defence, if a perſon, though

unjuſtly beaten, ſhould rip up the entrails of the aggreſſor, as there is an evident diſproportion between the aggreſſion and defence; the former cauſes only hurt and pain, the latter death.

Beſides proportionate and lawful means, defence muſt not be carried to exceſs; which is the caſe when we bring more evils upon an injurer than are neceſſary for reparation and ſecurity; for as theſe are the ends for which defence may be juſtly exerciſed, it follows, that an extended proſecution of that right is deſtitute of a juſt cauſe, and therefore ceaſes to be a right. All acts of violence thus extended beyond their juſt limits, become lawleſs aggreſſions.

It is therefore an important duty, that we undertake no defence without a juſt cauſe.

It is likewiſe a duty, in exerciſing the right of juſt defence, that we do not *exceed its limits*, by making uſe of unlawful means, or carrying the uſe of ſuch as are lawful to exceſs.

Sch. 1.—The principles of juſtice, humanity and prudence require, in making uſe of the right of defence, that we do not diveſt ourſelves of internal friendſhip.

Sch. 2.—In forming an eſtimate of our own conduct, we cannot be too ſtrict, whilſt that of a neighbour, even that of an enemy, has a claim to our charity. In all caſes of defence proceeding from a juſt cauſe, we ought to make allowances, and conſider, not ſo much what the real danger of the defender has been, as what he himſelf conceived it to be. There may be inſtances where paſſion has had the better of judgment, and conſequently defence is carried too far; but is it not in ſome meaſure owing to the aggreſſor, that the defender has been put into ſuch a ſtate?

A defender tranſgreſſing the limits of juſt defence, becomes an aggreſſor as far as he brings unneceſſary evils upon his adverſary, or more than are ſufficient for his

his own reparation and ſecurity. In this caſe, therefore, he is bound to make amends for ſuch an exceſs of unlawful violence.

A perſon may remit his right of defence, for it is his own.

On that very account he cannot be compelled to defend himſelf.

Sch. 1.—It is to be obſerved, that we treat here of thoſe rights and duties which individuals might exerciſe, and would be held to obſerve amongſt one another in the abſolute ſocial ſtate, where they are conſidered as fellow men, and where each is in the poſſeſſion of all his natural rights, and entitled to their full exerciſe.

Sch. 2—When, on the contrary, men are conſidered in a ſtate of civil ſociety, where natural rights, and amongſt them the rights of defence and war, and more eſpecially the exerciſe of them, is in a greater or leſs degree lodged with the government of that ſociety; it is evident, that theſe natural rights muſt undergo many modifications.

Sch. 3.—Citizens may remit or exerciſe all thoſe natural rights which are not delegated, and as far as the exerciſe of them is not lodged in the hands of government.

Sch. 4.—Government, on the other hand, has the diſpoſal of the exerciſe of the delegated rights of citizens, as far as that exerciſe is delegated; it may remit and pardon, where civil duty points out to citizens the way of interceſſion.

Sch. 5.—As individuals muſt exerciſe the right of remiſſion, or of proſecution of defence in conformity to duty, ſo government may not exerciſe arbitrary power in that reſpect, ſince it is a duty incumbent upon it to uſe all delegated rights for the welfare and ſecurity of civil ſociety in general.

A remiſſion of the right of defence becomes our duty when it produces greater and more univerſal felicity than would reſult from a ſtrict proſecution thereof.

But it cannot be lawful, at leaſt in the forum of conſcience, if ſuch remiſſion has a bad tendency, or produces

duces bad effects, or if it proceeds from ſiniſter motives, or endangers the ſecurity of others.

Sch. 1.—As the general conſequences of the exerciſe of the rights of defence and war among individuals would render a ſtate of ſociety either impoſſible, or at leaſt extremely unhappy, we ſee the great cauſe why thoſe rights are to a certain extent very wiſely lodged in the hands of government, and the exerciſe of them intruſted to its care.

Sch. 2.—It is for the ſame reaſon, that a remiſſion of the right of defence, in caſes where the good of ſociety is at ſtake, cannot remain at the diſpoſal of individuals. If each man has a right to withdraw himſelf from the defence of his country when he pleaſes, ſociety cannot ſubſiſt.

Sch. 3.—Whilſt we conclude, from theſe and other weighty principles, that no member of civil ſociety can have a ſolid objection to an exerciſe of the right of repelling force by force, particularly when that exerciſe is neceſſary for the aſſiſtance of our fellow citizens and the preſervation of the public good of our country; we think it commendable in government to mitigate its public right with reſpect to perſons who pretend ſcruples of conſcience, ſo far as is conſiſtent with public good.

Sch. 4.—Should lenity claſh with public good, there is no doubt but that the latter ſhould ſuperſede all other conſiderations. Upon the whole, if perſons have a claim upon the humanity of government, it is very obvious that the latter can in no wiſe condeſcend to any thing leſs than a reaſonable equivalent.

Violent defence is ſo near akin to war, that nothing more is required for conſtituting the latter, than that the former become reciprocal.

War may be defined to be that ſtate, where men reciprocally reſort to the right of defence, committing violence againſt one another, determined to repel force by force.

The oppoſite of war is *peace*. Peace, therefore, may be defined to be that deſirable ſtate where no reciprocal

ciprocal injury has taken place; where men do not look upon one another as aggreſſors, and conſequently abſtain from acts of reciprocal violence.

Sch. 1.—According to theſe ſeveral definitions of peace, it is manifeſt, that thoſe have the beſt proſpect of enjoying its bleſſings, who carefully refrain from acts of injury, and are conſcientiouſly ſcrupulous of giving every one his due; for ſuch conduct leaves not even a pretence for committing an act of violence.

Sch. 2.—As perfection in human affairs cannot be expected, and as the beſt diſpoſed neighbour may commit an act injurious to another, ſtill, even in this caſe, a perſon ſetting a proper value upon peace will rather ſubmit to the juſt right of the injured, than reſiſt, and thus render violence reciprocal.

Sch. 3.—Conſidering the imperfections of human nature, and the various temptations ſurrounding men in their intercourſe with one another, it is not to be wondered at that injuries take place; but, as men are prone to aggreſſion, is it not a matter of ſurpriſe that they are unwilling to make conceſſions, or even reparation? Notwithſtanding the frailties of nature and the great variety of intereſts and ſentiments in ſociety, peace and harmony might ſtill prevail, and human intercourſe more frequently preſent us with the pleaſant ſight of beholding brethren in unity, if a ſolicitude to prevent or immediately to repair injuries ſhould become general among the children of men: all cauſe for war would thus be done away.

Sch. 4.—War amongſt brethren is a thing in itſelf ſo horrid, and its conſequences ſo dreadful, that even a remiſſion of our right, when conſiſtent with higher duties, is not too great a ſacrifice, if peace may thereby be cultivated and preſerved.

Sch. 5.—This being the caſe, how careful ſhould we be, when higher obligations make the exerciſe of our right of defence neceſſary, to uſe it with all poſſible prudence and moderation, and to guard againſt the bias of paſſion, leſt we become guilty of carrying defence beyond its juſt limits, and thereby give cauſe for reſiſtance, and provoke war, which both duty and intereſt require us to avoid as much and as long as poſſible.

Sch.

Sch. 6.—We need only ſubſtitute, in the definitions of peace and of war, the term nations for that of men, in order to have an adequate idea of public peace, the greateſt national bleſſing on earth, and of public war, the greateſt calamity that can befal a nation. Public peace may be defined to be that ſtate among nations, where there is neither actual aggreſſion nor real danger of an intended one: public war, on the contrary, takes place when nations diſtreſs and reciprocally commit violence againſt one another.

Sch. 7.—Although we may not here enlarge on the public rights of peace and of war amongſt ſtates and nations, a ſubject which is reſerved for another part of this treatiſe, yet it ought to be obſerved, that all that has been or may be ſaid with reſpect to the juſt exerciſe of perfect rights, of reparation, defence and war, between individuals, is the very baſis and foundation of what is right or wrong in the conduct of ſocieties, ſtates and nations, in their intercourſe with one another. We allow that there is a great and very material difference between public and private concerns, with reſpect to conſequences, effects and extent; but there cannot be any formal or internal difference with regard either to juſtifying the cauſe for beginning, or the juſt mode of conducting acts of violence and compulſion; becauſe nations are men, and as ſuch are in the ſame natural relation in which individuals are placed, to wit, fellow-citizens of the earth, ſubject to the ſame government of the Moſt High, and equally bound to obey his majeſtic commands. The ſame rights may therefore be exerciſed by nations in a ſtate of aggreſſion and hoſtility, which the principles of nature point out as the proper line of conduct for individuals; and the ſame duties are to be obſerved by nations, which individuals have to perform in conſiſtency with the laws of nature, juſtice and equity.

In order, therefore, to learn with preciſion what conduct public bodies of men ſhould obſerve towards one another, in caſe of injury, aggreſſion and inſecurity, we muſt carefully examine the rights of individuals in ſuch ſtates.

Sch. 8.—It is true, in the preſent ſtate of things men may very ſeldom be conſidered in their abſolute ſocial ſtate, as they are generally members of ſociety, and as ſuch have tranſferred,

ferred, in ſome degree or other, their rights of reparation, defence and war, particularly the exerciſe of them, to the direction of government. But if theſe rights are to be exerciſed, they muſt be known; for without this, both citizens are ignorant of what they have to expect from government, and government is unable juſtly to conduct the exerciſe of rights which are unknown and undetermined.

Sch. 9.—As citizens have now to exerciſe their natural rights of reparation, defence and war, by the laws and directions of government, it is evident, that ſuits and actions are ſubſtituted for the natural mode of exerciſing thoſe rights. Hence the neceſſity of good, ſalutary and energetic laws, and of a faithful and impartial adminiſtration of them, in order to afford citizens that protection and ſecurity to which they have a natural right.

Sch. 10.—Laws which have that tendency and effect, are worthy of the higheſt eſteem, and a juſt adminiſtration of them is a public bleſſing. An obſequious compliance with their precepts and prohibitions, as it conſtitutes one of the moſt excellent traits in the character of a good citizen, ſo it is the beſt poſſible mode for the exerciſe of thoſe perfect rights with which citizens are inveſted.

There is ſuch a thing as the right of making war; for we have a right to repel an unjuſt aggreſſion, in order to live in peace and ſecurity. This right cannot be defeated by the lawleſs reſiſtance of an aggreſſor: if this were the caſe, there would be no moral poſſibility of directing things which are our own for the attainment of our felicity: but ſince it has been proved, that this would be contrary to the firſt principle of natural laws, it follows, that we have not only a right to make a juſt war, but that it is even our duty in every caſe where avoiding it would interrupt our felicity or be contradictory to our happineſs.

Between the right of peace and that of war there is this difference, that the former is abſolutely natural, the

the other, on the contrary, hypothetically ſo. It is evident from our own nature and the natural order of things, that we ſhould enjoy our own undiſturbed by any other mortal. But the right of war preſuppoſes a fact, to wit, interference and diſturbance by another in thoſe things which are at our free diſpoſal for the end of our exiſtence, our own happineſs and that of others, and for the glory of our Maker.

The ſtate of nature, conſidered in itſelf, is therefore not a ſtate of war, but of peace.

Sch.—Rights of peace and war are taken in different ſignifications: ſometimes, as is the caſe here, they are taken for qualities in perſons; when, on the other hand, they frequently denote thoſe rules for conducting the affairs of peace or war which reſult from the precepts and prohibitions of the law of nature, or reſt upon uſages which have obtained the force of laws.

From the nature of the rights of peace and war it is evident, that no right of war can take place without previous diſturbance in what is our own; for there cannot be a right to commit violence where there is no injury.

That war is *juſt* which has a juſt cauſe and is juſtly conducted: war, on the contrary, is unjuſt, when it is deſtitute of a juſt cauſe and conducted in an unjuſt manner, or protracted to an unlawful extent.

A juſt war, which really proceeds from a diſturbance, may become unjuſt with reſpect to the mode, manner and extent of its being conducted.

An unjuſt war may be juſtly conducted, but being founded on an unjuſt cauſe, can never become juſt.

Sch. 1.—Wars without a juſt cauſe are, in the ſight of natural laws, nothing but methodical robberies.

Sch.

Sch. 2.—Suaſory cauſes, dictated by ambition, ſelf-intereſt, a deſire of fame, for the purpoſes of conqueſt, &c. are far from juſtifiable.

Sch. 3.—The pretence of placing nations in a better ſtate with reſpect to religion or civil liberty, is ſo far from being a juſt cauſe for war, that it is barefaced tyranny under the garb of ſcandalous hypocriſy.

Since aggreſſion only can be a juſt cauſe for war, it follows, that perſons or nations, before they undertake war, ought to be convinced of this point, leſt they ſport with the rights of man, tranſgreſs the natural laws, and become the diſturbers of ſociety,—hateful to their fellow creatures, and abominable in the ſight of God.

Thoſe who are at war being called hoſtile enemies, it follows, that this term is applicable to the aggreſſed as well as the aggreſſor, as ſoon as acts of hoſtility are committed.

Sch. 1.—In the ſequel we underſtand by the term enemy ſuch an one as is hoſtile.

Sch. 2.—Hence it follows, that from another's not committing acts of hoſtility againſt us, we cannot ſafely conclude that he is our friend or well-wiſher.

Sch. 3.—With reſpect to local ſituation, there is no ſuch thing as *natural enemies:* if nations or men are ſo placed that they may eaſily interfere with each other, a good underſtanding ought to be earneſtly and aſſiduouſly cultivated between them.

The diſtinction of war into defenſive and offenſive, may be referred to the cauſe as well as to the operations of a war: with reſpect to the former, he who is the aggreſſor, that is to ſay, who is the moral cauſe of the injury, whether he begins or provokes hoſtility, carries on an offenſive war: the party aggrieved, on the contrary, is on the defenſive, whether acts of hoſtility begin with him or with the adverſary. But, when refe-

rence is had to operations, he who invades is ſaid to carry on an offenſive war, and the invaded is ſaid to be on the defenſive.

Sch. 1.—In the firſt ſignification of the terms, offenſive war is unjuſt, whether the operations be offenſive or defenſive.

Sch. 2.—According to the ſecond acceptation of the terms, an offenſive war may be juſt and a defenſive unjuſt, and vice verſa.

Sch. 3.—With reſpect to the general conduct of a war, the operations are liable to change: he who invades to-day may be invaded to-morrow; an offenſive war may therefore become defenſive, and vice verſa.

It is our duty to cultivate peace as long as poſſible; for it is our duty to injure no perſon. By avoiding the commiſſion of injury and acts of aggreſſion, we avoid giving cauſe for war: by avoiding cauſes we avoid their effects. If, therefore, we are careful to do no injury, and to give others their due, we do all that is requiſite for avoiding war. But as by this care and ſolicitude we are ſaid to cultivate peace, it follows, not only that this is a great duty incumbent upon all, but alſo, that cultivating peace as long as poſſible is the ſureſt means to avoid being involved in ruinous war.

Suppoſe, which may be the caſe, that ſuch a peaceable conduct cannot ſecure us againſt ambition, malevolence, and acts of injuſtice; what is then to be done? The duties of humanity dictate forbearance as long as it is morally poſſible; but when ſubmiſſion to acts of inhumanity and injuſtice claſhes with higher duties, which we owe to God, to ourſelves, to our houſhold and to others; if it becomes injurious to the peace and ſecurity of ſociety; if the cauſe of juſtice ſhould thereby ſuffer, whilſt the cauſe of injuſtice is ſupported; then indeed it is not optional with us, whether we will defend

defend our rights, or baſely ſurrender them. It is our duty to reſiſt.

He who wiſhes us ill, that is, one who is an enemy in the general ſenſe of the term, if not prevented, will naturally become hoſtile. If we cannot, therefore, ſoften him by our beſt endeavours to cultivate peace, our own ſafety makes it a duty for us to endeavour, by all lawful means, to prevent him from commencing acts of hoſtility, by laying ſuch obſtacles in his way as will deter him from ſuch a reſolution.

As fear is found to have a powerful influence on the human mind, even affecting thoſe who are deaf to the voice of reaſon and humanity, and too obdurate to be ſenſibly affected by the noble principle of love, it follows, that we muſt think of means calculated to ſtrike him with fear, or keep him under apprehenſion of the dangerous conſequences which may reſult from his attempting acts of violence.

There is no doubt but his apprehenſions will be ſuch, if he ſees that our power is equal or ſuperior to his own: we ought therefore to put ourſelves into a proper ſtate of defence.

If it becomes a duty, under certain circumſtances, to endeavour to gain over to our intereſt many and powerful friends, it will be particularly requiſite, that we proceed with the greateſt poſſible circumſpection, moderation and delicacy, leſt we give provocation, and by ſuch conduct excite our enemy to acts of hoſtility, which might be warranted by his right of defence; for by going too great lengths, we juſtify ſuſpicion concerning our diſpoſition, and thus give a juſt cauſe for defence and war.

Sch.

Sch. 1.—We need only make the enemy's caſe our own, in order to be convinced of the juſtice and propriety of the foregoing obſervations.

Sch. 2.—As theſe things have a particular reference to national affairs, they may ſerve to throw light upon many political maxims obſerved among the nations of the earth.

Since injury is the ſole cauſe of war, it follows, that no war may be proſecuted to an improper length, though it is even founded on juſt principles; for if actual injury ceaſes, if the impending aggreſſion is averted, if there is no invaſion to be dreaded, there is not one juſtifying cauſe for the commiſſion of an act of violence or hoſtility: but where there is no cauſe for acts of hoſtility and violence, there a ſtate of peace and ſecurity exiſts: conſequently no war can be carried on juſtly, if the aggreſſed can obtain ſuch terms of peace as will ſecure reparation and ſafety.

Sch. 1.—The right of war, where the aggreſſed has to propoſe the terms of peace, is therefore naturally limited. But ſuppoſe the aggreſſor is victorious, ſo that the injured cannot obtain terms calculated to make reparation, but muſt riſk his ſafety and ſecurity to the higheſt degree, if he does not ſubmit to the terms propoſed by the victor: in this caſe, is the right of war on the defender's ſide alſo limited? We anſwer in the affirmative; for what is phyſically impoſſible leaves us under an unavoidable alternative, and impoſes the duty to chuſe of two evils the leaſt.

Sch. 2.—In caſe the party who has juſtice on his ſide conſents to the terms of pacification propoſed, he is held ſtrictly to obſerve them as long as the other party faithfully keeps within the bounds of that pacification.

No inſidious ambiguities, but candour and honeſty ſhould dictate the terms of peace, and a ſtrict adherence to juſtice inſure the obſervance thereof. Where reparation and reſtitution cannot take place, there is room for amneſty; and an act of amneſty is to be held ſacred, as we ourſelves have thereby gained ſecurity and peace.

CHAPTER

CHAPTER VII.

Of the duties of ſpeech.

TRUTH, the principal object of the duties of ſpeech, is in its nature harmony and conſiſtency, which are co-eternal with the internal poſſibility of the eſſences of things: its effects are order, beauty, connection, and mutual dependence, in all that exiſts: its tendency is moral excellency, and its object the compaſs of all that can render life happy, ſupport us under the viciſſitudes of time and chance, and bear up the ſoul with the ſure hope of immortality.

It is diſtinguiſhed into metaphyſical, logical, and moral; or, in other terms, into the truth of things, of words, and of thoughts.

Sch.—Metaphyſical truth may alſo be called *eſſential;* that which is here ſtiled logical, is more generally known by the appellation of *real.*

All *evidence* of truth, of whatever kind it may be, ultimately depends upon theſe two infallible criteria, or ſelf-evident principles:

1. *It is impoſſible that a thing be and be not at the ſame time and under the ſame circumſtances.*

2. *Whatever is either poſſible, exiſtent, or conceivable in the mind, muſt have a ſufficient cauſe for being ſo and not otherwiſe.*

Sch.—It is true, the ſecond of theſe principles bears not immediately that incontrovertible evidence which the former cannot fail to produce; but it may be deemed ſelf-evident, becauſe it is, as it were, the immediate conſequence of that

that firſt principle of all human knowledge. Suppoſe but for a moment a thing of any deſcription whatever to be without a ſufficient cauſe; would it not follow, that it might be and not be at the ſame time? The perſon, therefore, who, from the circumſtance that we cannot plainly perceive the cauſes of ſome things, ſhould conclude that they are deſtitute of a ſufficient cauſe or cauſes, would fall into the ſame abſurdity with him who aſſerts that a thing is and is not what it really is, that *black* is *white*, or that *day* is *night*, &c.

Hence we lay down theſe propoſitions as infallible maxims, and as ſure criteria for diſtinguiſhing truth from falſhood:—That which is contrary to theſe and other ſelf-evident principles of human knowledge, is falſe, impoſſible and abſurd; that, on the contrary, which evidently flows from them, is poſſible and true.

Things are ſaid to be *eſſentially* or *metaphyſically* true, if their predicates are conſiſtent with their eſſences: thus, it is eſſentially true that God exiſts, that he has created the world, that he is almighty, omnipreſent, omniſcient, infinite in power, wiſdom, juſtice, goodneſs, &c. for theſe predicates are conſiſtent with the eſſence of an infinite being. But it is metaphyſically falſe, that the world exiſts of itſelf, that ſin is a thing indifferent, that the ungodly can be happy; for theſe predicates are contradictory to the eſſence of the world, to the nature of ſin and ungodlineſs, and to the perfections of the Deity.

Sch. 1.—Metaphyſical truth is unchangeable, and co-eternal with the eſſences of things. The eſſence of the infinite being includes neceſſary exiſtence; but the eſſences of all finite beings have been metaphyſically true before they have exiſted; nay, ſuch eſſences are true as never ſhall exiſt. But let not this be an objection to the neceſſity of a careful inveſtigation of metaphyſical truth: we have gained a great deal if we have an adequate idea thereof: it is a ſhield againſt innumerable errors, deceptions and deluſions.

deluſions. There are things which are true, though we are unable to attain a diſtinct knowledge of them: ſoul and body co-operate with one another; the loadſtone attracts iron; there is a ſtate of future bliſs and glory, &c. though the nature of that co-operation, attraction, happineſs, &c. cannot be fully comprehended. What our faculties cannot reach, other beings may ſee clearly; what is now hidden from our apprehenſion, we may hereafter comprehend with full perſpicuity.

If metaphyſical truth had been properly attended to, we ſhould not have a continual war againſt ſcepticiſm and unbelief: a thouſand tales and ſtories would never have found credit: the ſtories of ſpirits appearing, of ſtatues of ſtone, of wood, &c. performing human or ſupernatural actions, &c. would never have met with patronage among the children of men.

We have only to bring things to the teſt of the afore-mentioned principles, in order to ſee whether they are beyond the reach of reaſon, or contradictory to it. Whilſt things of the former kind are objects of faith, truth commands us to reject the latter as incredible, impoſſible and abſurd, though the higheſt authority of men ſhould join in their patronage and ſupport. Where we cannot clearly diſcover the nature of the relation of things to the above principles, there is cauſe why we ſhould ſuſpend our judgment rather than imprudently precipitate ourſelves into errors and miſtakes.

Sch. 2.—All works of fancy, epic poetry, the drama, romances, fables, &c. are to reſt upon metaphyſical truth, in order to preſerve that probability and propriety which are eſſentially neceſſary for pleaſing the fancy and entertaining the imagination, in which the principal merit of theſe kinds of performances conſiſts. Thus Homer, ſuffering his heroes to come into difficulties too arduous and intricate to be removed by human wiſdom and ſtrength, introduces his fabulous deities, in order to reconcile the mind of the reader to his fictitious narrations.

Truth of words, or *real truth*, has reference to things which exiſt, and is the conſiſtency of our ideas, or words, with the things themſelves, their qualities, properties, relations,

relations, and the particular modes of their exiſtence; for inſtance, if we judge or call that gold which is really ſo; if we repreſent that as good and excellent which in its nature and tendency has a beneficial influence on human happineſs. The contrary of real or logical truth is *logical falſhood*; for inſtance, if braſs be taken for gold, things of pernicious tendency for good and excellent, &c.

Nothing is of higher importance to mankind, nor any object more worthy the diligent reſearches of the human mind, than logical truth. We ſcan heaven, analyſe the component parts of bodies, of matter, air, &c. in order to inveſtigate things as they are, and to acquaint ourſelves with the ſalutary or pernicious effects of their properties. Without knowing the real truth of things, uncertainty would hold its diſmal reign, mutual truſt and confidence would find no place, juſtice could not be adminiſtered; the voice of inſtruction, of animation, of conſolation, could not be heard; morality would remain ſlothful indifference, hope would be impoſſible, and there would be no proſpect of felicity; nay, there would be no ſecurity for our life and health, as wholeſome food could not be diſcerned from that which is pernicious and poiſonous. In ſhort, without the knowledge of the real nature and properties of things, human intercourſe would be, like the earth without the enlightening beams of the ſun and the reflected light of the heavenly luminaries, chaos and confuſion!

Sch.—He who diſcovers a new truth, beneficial to ſociety, merits well of mankind, and deſerves to be held in high eſtimation, more ſo, perhaps, than a diſcoverer of new countries.

The

The real truth, like hidden treaſure, is often difficult to be come at; but, notwithſtanding this, it is attainable in many things which are neceſſary for the comforts of this life, and for a well eſtabliſhed hope of a better.

We can form diſtinct ideas of various objects, which involve no contradiction: by this way we come at the knowledge of the very eſſences of things, though ever ſo remote from our apprehenſion: thus we have diſtinct ideas of God, of his exiſtence, attributes and works—of the contingency of the world—of our own nature, faculties, deſtination, &c.

Sch.—We can clearly delineate in the mind a complicated machine before it exiſts: we have diſtinct ideas of the mathematical figures and their eſſential properties, though they never exiſt by themſelves in nature, being only the eſſential properties inherent in things which really exiſt.

Our ideas are ſtill more palpable and ſtriking in ſuch things as have exiſtence: we may become as certain of their properties and uſes as we are of our own exiſtence, wants and inclinations.

It is not only in idea, but alſo in the connection of various repreſentations, that is, in judgments, in propoſitions and reaſoning, that logical truth can be diſcovered; for all reaſoning conſiſts of judgments, and muſt be true if theſe are ſo, and if there is conſiſtency in the mode of drawing inferences or concluſions.

Thoſe propoſitions are true the predicates of which are conſiſtent with their ſubjects; as, for inſtance, God is a ſpirit; men are liable to miſtakes.

The truth of propoſitions reſts ſometimes upon an *internal criterion*, but often upon an *external* only; and

there are many propoſitions which are ſupported by both.

Thoſe propoſitions have the internal criterion of truth where the conſiſtency of the predicates with their ſubjects can be diſtinctly ſeen; that is, where we plainly diſcover that the oppoſite of them implies impoſſibility or abſurdity; as, God is almighty; men are liable to error.

In other propoſitions we muſt reſt contented with the evidence of ſenſe and the well eſtabliſhed experience of others; that is, we can only have the *external criterion* of truth: according to this, that propoſition is true the predicate of which is conſiſtent with the nature and properties of the ſubject, as diſcovered by well eſtabliſhed experiments.

Sch. 1.—For inſtance: the loadſtone attracts iron, the needle points to the north pole, the human body and ſoul have a reciprocal influence upon each other, &c. We cannot ſo diſtinctly perceive the conſiſtency of predicates with their reſpective ſubjects as to be able to ſhew, from the nature of either the one or the other, that the oppoſite of them is impoſſible.

Sch. 2.—But notwithſtanding this, we have a very ſtriking and ſufficient evidence of the truth of ſuch-like propoſitions; becauſe it is evident, that the oppoſite of them would be contradictory to ſenſe and experience, which are far more obvious and familiar to our apprehenſion than the nature of things.

Sch. 3.—The truth of propoſitions which reſt upon internal evidence, may be brighter than that which depends upon the external: the latter, however, is more ſtriking and forcible, and more eaſily attained.

There are many propoſitions the truth of which reſts both upon the internal and external criterion; that is, reaſon, ſenſe and experience conſpire in convincing the mind of the conſiſtency of their predicates with the ſubject.

Sch.

Sch.—This is the higheſt poſſible degree of evidence in nature: thus it is true, that men are liable to miſtakes. The conſiſtency of the terms of this propoſition flows from the nature of things. Our eyes have often witneſſed the errors and miſtakes of all ſorts of characters; and the report of hiſtory perfectly coincides with our own experiences. This degree of evidence attended the wonders of Chriſt, with reſpect to thoſe who ſaw them and had the diſcretion to compare their experiences with the ſcriptures: there facts took place which moſt evidently beſpoke almighty power in the agent; the eyes of friends and enemies beheld the agency; and the nature both of the agent and of thoſe acts had been predicted and atteſted by many witneſſes, who derived their teſtimony from divine inſpiration.

Truth, with reſpect to the ways by which it becomes evident, is diſtinguiſhed into experimental, rational and hiſtorical.

We are ſaid to *experience*, or perceive things, when we obtain repreſentations of them by means of our ſenſes: thus we have *experimental truth* in things that we ſee, hear, taſte, ſmell or feel.

Rational truth is that evidence which is derived by a proper mode of argumentation from firſt principles.

Hiſtorical truth depends on the teſtimony, that is, on the experiences of others: thoſe who declare their experiences to others are called *witneſſes*, and the declaration itſelf has obtained the name of *teſtimony*.

We diſtinguiſh *ocular* from *hearſay* witneſſes: the former declare their own experiences, the latter thoſe of others.

The receiving another's teſtimony as true is called *aſſent:* aſſent to a well eſtabliſhed teſtimony is *faith*.

Whether a teſtimony is well eſtabliſhed, and conſequently deſerves full credit and faith, is an enquiry of great

great importance, as it is often attended with many intricacies and difficulties. Here two extremes are to be avoided: we may contract the guilt of *incredulity*, or incur the imputation of *credulity*, by denying our aſſent to teſtimonies ſufficiently well eſtabliſhed, or giving it to any report, however badly ſupported.

All the merit of teſtimonies depends upon theſe particulars: 1. that the things teſtified be not metaphyſically falſe: 2. that thoſe who teſtify have the character of good witneſſes.

A *good witneſs* is one who is both capable and willing to teſtify the truth as it is.

Sch.—All that is matter of fact reſts upon experimental or hiſtorical truth; but all that can be inferred from indubitable principles is an object of rational truth.

From what has been explained it follows, that there are truths which are only objects of reaſon; as, the exiſtence of a God, the ſoul, &c. others again which are objects of reaſon and ſenſe; as, the mortality of the body: and others which are experimental or hiſtorical, or perhaps both; as, that there was ſuch a thing as the city of Jeruſalem, that the cities of Rome, Paris, New-York, &c. exiſt.

Hence it follows, that there are different criteria by which each claſs of truths muſt be examined; for to deny the exiſtence of ſpirits, becauſe we cannot ſee them, would be as imprudent as to deny our eye-ſight becauſe we cannot demonſtrate it.

The *criterion of rational truth* is this propoſition: that is indubitably true which is juſtly inferred from indubitable principles, or when the oppoſite thereof is metaphyſically falſe, abſurd, or impoſſible.

The *criterion of experimental truth* is this maxim: if the

the mind is attentive and vigilant, the ſenſory organ ſound, the mean and mode ordinary, that is, ſuch as they ought to be for the purpoſe of making experiments of the kind, the object of ſenſation within a proper diſtance, and its appearances to our ſenſes always the ſame; then things really are what they appear to be, or in other words, then our ſenſations are true.

The *criterion of hiſtorical truth* is, as has been ſaid, this propoſition: if a fact is not metaphyſically falſe, and is ſupported by a well eſtabliſhed teſtimony, it is then true, and deſerves our faith.

Since a *well eſtabliſhed teſtimony* requires capability and ſincerity in the witneſs, it is neceſſary to fix upon ſuch criteria as may render it certain that a witneſs is able and willing to teſtify the truth.

The criterion for the *capability* of a witneſs is, that he has been an *eye-witneſs*, that he himſelf has experienced the things of which he teſtifies, and that his experience has been attended by all or ſuch of the criteria of experimental truth as the object of the teſtimony would admit of.

The criterion for the *ſincerity* of a witneſs, that is, his readineſs to ſpeak the truth as he knows it, is, that he has not or cannot have from his teſtimony any expectation of honour, riches or preferment, either for himſelf or his friends. His *ſincerity* is ſtill more evident when the object of his teſtimony is oppoſed to his own prejudices and intereſts, when it involves him in difficulties, cauſing him reproach, contempt, perſecution and even death.

As the criterion of the capability of witneſſes is a teſt of logical truth, ſo that of their ſincerity is a ſufficient evidence

evidence for the moral truth of what they teſtify; and both taken together leave no rational doubt with reſpect to the real or hiſtorical truth of their teſtimony: for it is a maxim as infallible as a demonſtration, that *he certainly ſpeaks the truth who is both able and willing to ſpeak it.*

Sch.—When we have the criterion of the ſincerity of a witneſs, then we become certain that he ſpeaks the moral truth.

Moral truth is the conſiſtency of our words with our inward thoughts, ſentiments and deſires.

Speech, in the ſtrict ſenſe of the term, conſiſts of words ſpoken or written; but, as words are the moſt common ſigns by which we expreſs our thoughts, we may take ſpeech for the exhibition of any ſigns by which others are to underſtand our thoughts. Not to exhibit ſigns by which our thoughts may be underſtood, is called *ſilence.*

Sch.—There are circumſtances in which ſilence may ſerve as a general ſign for interpreting our thoughts; nay, common converſation preſents us with many inſtances where ſilence ſpeaks louder than words. For inſtance; if a perſon, having occaſioned an accidental damage, would declare the circumſtances and confeſs the fact, we ſhould feel ourſelves more reconciled to the loſs ſuſtained, than if we muſt take the author upon a conſtruction, which perhaps warrants the ſuſpicion that he has done the miſchief wilfully, with a bad intention, or from ſiniſter motives, &c.

Signs by which our thoughts may be communicated and interpreted, are either *original* or *arbitrary:* the former, men are led by inſtinct to employ and to interpret; for inſtance, the various tones of the voice, the different changes of features and geſtures, naturally calculated to expreſs the internal affections of tenderneſs, ſorrow, ſympathy, joy, pleaſure, grief, ſurpriſe, terror, hope, anger, reſentment, contempt, &c.

Sch.

Sch.—The abſence of ſuch ſigns is an indication of an even, placid temper of mind.

Arbitrary ſigns are called *conventional*, becauſe they reſt either upon a tacit or explicit convention among the parties converſing with one another by means of them.

Converſation by way of *tacit convention* is, when we make uſe of common language, or ſuch *mute ſigns* as are generally underſtood to denote affirmation, approbation, information, accuſation, &c. or the contrary; as, looks, pointing with the finger or hand, nodding, ſhaking the head, &c.

Parties by *explicit convention* may converſe by a particular uſe of words, mute ſigns, or hieroglyphic characters, agreed upon for the purpoſe of communicating their thoughts to one another in ſuch a manner as to render it impracticable for other perſons to underſtand the ſubject of their converſation.

In whichever of theſe ways we ſpeak, it is clear that we give ſigns whereby others may apprehend our thoughts: ſpeech is therefore an action in which others are more or leſs intereſted, and is under the cognizance of the ſame laws which form the rules for conducting our actions.

Hence it follows, that we muſt obſerve duties in ſpeaking as well as in ſilence; and that the ſame laws which regulate our duties to God, to ourſelves and to others, preſcribe alſo the rules according to which thoſe duties ought to be conducted.

We may therefore, for the direction of our conduct in ſpeech, lay down as an infallible maxim this propoſition: *direct ſpeech or ſilence to the glory of God, to thine own happineſs and that of others*; and carefully avoid the contrary.

Sch.

Sch.—We treat here of ſpeech under the idea of moral actions; for there is ſuch a thing as ſpeaking which is not moral, and therefore comes not under the cognizance of laws and of duty: for inſtance, that of madmen, infant children, expreſſions of perſons in a paroxyſm of ſickneſs, &c.

From this principle it immediately follows, that as it is on one hand an indiſpenſible duty for us to ſpeak the truth and the whole truth, or in other words, to exhibit ſuch ſigns as are fully conſiſtent with our thoughts, where the glory of God can thereby be manifeſted, and our own happineſs and that of others promoted; ſo it is on the other hand abſolutely requiſite, that the truth be kept ſecret in all thoſe caſes where the diſcloſing of our thoughts would be in any wiſe repugnant to theſe great and deſirable ends.

As a proclivity of the mind to ſpeak the truth, in all caſes where the glory of God and the good of mankind require it, is called *veracity*; and as a ſtedfaſt reſolution to keep it ſecret, when thoſe ends render it neceſſary, is known by the name *taciturnity*; it follows, that it is a high duty for us moſt faithfully to exerciſe thoſe virtues, in every inſtance and occurrence of life where the glory of God and the good of ſociety render either the one or the other neceſſary.

Sch. 1.—Since veracity can be exerciſed only in thoſe caſes where the glory of God, the duties we owe to ourſelves, and the good of ſociety require that we ſhould ſincerely diſcloſe our thoughts, it is evident, that thoſe have no pretence to this amiable virtue who divulge every thing they know, though it be oppoſed to the duties of religion, diſgraceful to their own character, incompatible with the principles of equity and humanity, contrary to decency, detrimental to the perſons whom they addreſs, and injurious to thoſe whoſe actions are the ſubject of ſuch imprudent and indiſcreet converſation.

Sch. 2.—Suppoſe it poſſible, which can hardly ever be the caſe, that the buſy hoſt of tale-bearers confine themſelves to what

what is true, without adding to or taking from their ſtock of knowledge, and without going ſo far as pretending to know the deſigns and intentions of the victims of their *loquacity:* ſuppoſe their tales ſtrictly true and innocent in that reſpect; what good end is thereby obtained? you divulge what the glory of God, your own character and the good of mankind require to be kept to yourſelves, or what perhaps you yourſelf ſhould communicate directly to the agent, or impart only to ſome particular perſons. Conſider the conſequences of indiſcreet loquacity: you trifle away your time: by being buſied with others, you forget yourſelf: you might have had opportunities to ſpeak things more innocent, more edifying: you intrude upon your neighbour's patience and time: you degrade your character by betraying the officiouſneſs of a tale-bearer: you become guilty of ſlander: you create miſchief in families, diſtruſt in ſociety: you ſpeak to ſpread abroad miſery: you delight in the frailties and faults of others: you ſport with charity, ſympathy and humanity: you lay ſnares and temptations for your fellow creatures, who would have retained their innocence had they been ſuffered to think well of perſons of an indifferent character, &c. You ſpeak the truth, but can your conduct be innocent? can it even be indifferent? No: you become either an indirect or a malicious ſlanderer; the former, if you have not the intention to render your neighbour miſerable; the latter, when your tongue is employed for the purpoſe of creating miſchief. The end being unjuſt, the mean you make uſe of cannot be rendered innocent. If the truth is told for the purpoſe of warning and cautioning your neighbour, then it is conſiſtent with the good of mankind as well as with the glory of God and the duty of veracity.

Sch. 3.—Suppoſe you deviate from the truth, you attribute to your neighbour intentions and deſigns which he had not, or you do not know all the particular circumſtances of the action, or culpably or maliciouſly conceal them; you mingle untruth with truth: who is able to calculate the miſchief which is cauſed by that officious loquacity ſo prevalent in human converſation?

Sch. 4.—There are therefore innumerable occurrences in life, where a man of candor, ſincerity and veracity muſt keep

the truth ſecret, in order to be faithful to God and to himſelf, juſt and humane towards his fellow-creatures.

Sch. 5.—Not every inſtance of a reſerved conduct in converſation is therefore commendable: there is a time to ſpeak, and there are circumſtances which require ſilence and reſervedneſs: there are a variety of objects which may be proper ſubjects for converſation, whilſt many others are highly improper and hurtful. Thoſe, however, who carry reſerve to exceſs, and thereby become unſociable, are not liable to half the miſchiefs which loquacity produces.

Thoſe who hold that moral truth is of a character peculiarly ſacred and inviolable, ſo that it may not, under any circumſtances whatever, undergo any modifications, have not ſufficiently conſidered, that on the one hand they derogate from the ſacred character of other moral actions, which are under the controul of the ſame laws according to which our converſation with reſpect to ſpeech and ſilence muſt be regulated, and on the other aſſert what is impoſſible in the nature of things. Why ſhould I not ſpeak as I ought to act? or what greater degree of morality or immorality is ſpeech capable of than any other kind of moral actions? Is there a greater end to be purſued in ſpeech or ſilence than that which ſhould be the ultimate ſcope of all our actions? Is there a greater end poſſible than the glory of God, our own felicity and that of others? Certainly not. The conſequence then is, that, if we will have it in our power to do our duty at all, ſpeech and ſilence, in caſes of colliſion, muſt undergo modifications and exceptions as well as other actions, and that theſe modifications and exceptions muſt be made according to a juſt eſtimation of our obligations, laws and duties, and in ſuch a manner as that the greater will always ſuperſede the leſs.

Sch. 1.—From theſe conſiderations we may judge of the juſtice and propriety of thoſe inſtances and rules which authors have

have laid down as juſtifiable exceptions to the exerciſe of the virtues of veracity and taciturnity under particular circumſtances.

Sch. 2.—Before we proceed to quote ſome of thoſe inſtances, it is neceſſary to obſerve, that, in our opinion, deviations from moral truth are not ſufficiently diſtinguiſhed: hence it is, that what one author calls a falſhood, another ſtiles a lie; hence it likewiſe is, that we meet not, in any ſubject of morality, with more difficulties, intricacies and confuſion, than in that of the duties of ſpeech. In authors, as well as in common converſation, no other diſtinction is obſerved than truth or a lie, the latter paſſing for a term perfectly ſynonimous with a moral falſhood. It is true, we cannot pretend to teach the proper uſe of a language in which we candidly acknowledge our deficiency: however, it ought to be remembered, that things different in their nature and tendency muſt be materially different; that ſpeech and ſilence, as moral actions, muſt admit of various degrees of morality or immorality, from the effects which they produce and the difference of intention from which they proceed. It is well known, that perſons commit faults by a culpable conduct, and run into crimes through malicious purpoſe and deſign.

Why is it, then, that the leaſt deviation from truth is a falſehood or a lie? Are there in ſpeaking no intermediate degrees of defect of moral rectitude? Is it the peculiar nature of this kind of actions that they admit only of extremes? If a breach of promiſe is a lie, what name is left to ſignify the moſt injurious falſhood?

Are there particular laws that prohibit innocent recreations, neceſſary diverſions in converſation, that is, in ſpeech?—Nay, the nature of things requires, that ſpeech or ſilence be referred to imperfect obligations and laws as well as to thoſe which are perfect. And is not that reference neceſſary for obtaining a true and ſtable criterion of what is juſt or unjuſt, honeſt or diſhoneſt, ſincere or inſincere, human or inhuman, decent and proper or indecent and improper in ſpeech or ſilence? Is there not both a material and formal difference beween a breach of duty and an injury?

Would it not, therefore, be more conſiſtent with logical truth, that deviations from moral truth which do not amount to a breach of duty, where others either do not

or have no right to expect that we ſhould ſpeak the truth, be denominated *untruths;* whilſt thoſe untruths which are repugnant to imperfect obligations and laws ſhould be called *falſhoods;* and that falſhoods committed contrary to perfect obligations and laws ſhould be branded with the appellation of *lies* of different degrees of heinouſneſs, according as the author has acted with greater or leſs culpableneſs or malice?

Sch. 3.—All thoſe authors on morality whom we have had an opportunity to conſult agree in this particular, that the duty of taciturnity requires our thoughts to be kept ſecret where the great ends before mentioned render that ſecrecy neceſſary; but they differ with reſpect to the uſe of means. Some will admit of no other than bare ſilence, making no allowance for occurrences where ſilence ſpeaks louder than words, even ſerving to heighten the deception, and where it is apt, as in caſes of ſuſpicion, to conſtrue innocence into guilt, a culpable action into the greateſt malice. Others juſtly allow the uſe of pretexts, or the exhibition of ſigns whereby the truth may be concealed, when we are intruſted with ſecrets on which the welfare of our country or of our neighbour and perhaps the ſafety of our lives depend, and where bare ſuſpicion would have a fatal or a pernicious effect: but theſe alſo differ with reſpect to the particular caſes and circumſtances as well as with regard to the means and manner by and in which the inward thoughts and ſentiments of our hearts may be concealed from others conſiſtently with the dictates of the law of nature. There are ſome who admit a falſhood to be made uſe of for that purpoſe; others again forbid it, and adviſe a careful ſearch after equivocations.

Sch. 4.—But it is time that we ſhould give their particular opinions on this ſubject:—"There are falſhoods which are not lies, that is, which are not criminal; as,

"1. Where no one is deceived, which is the caſe in parables, fables, novels, jeſts, tales to create mirth, ludicrous embelliſhments of a ſtory, where the declared deſign of the ſpeaker is not to inform but to divert; compliments in the ſubſcription of a letter, a ſervant's denying his maſter, a priſoner pleading *not guilty*, an advocate aſſerting the juſtice, or his belief of the juſtice of his client's cauſe. In ſuch inſtances no confidence is deſtroyed, because

cauſe none was repoſed; no promiſe to ſpeak the truth is violated, becauſe none was given, or underſtood to be given.

"2. Where the perſon to whom you ſpeak has no right to know the truth, or more properly, where little or no inconveniency reſults from the want of confidence in ſuch caſes; as, where you tell a falſhood to a madman for his own advantage, to a robber to conceal your property, to an aſſaſſin to defeat or to divert him from his purpoſe, &c. It is upon this principle that, by the laws of war, it is allowed to deceive an enemy by feints, falſe colours, ſpies, falſe intelligence, and the like; but by no means in treaties, truces, ſignals of diſtreſs at ſea, or ſignals of capitulation." Vide Paley's Principles of Moral and Political Philoſophy, chap. 5. Vide alſo for further information, Hutcheſon's Moral Philoſophy, Part II. ch. 10. § 7, &c.

Sch. 5.—The reader will obſerve, that according to our diſtinction all the caſes which have been laid down by thoſe authors come under the predicament of moral untruths; we may therefore lay down the following maxims as guides to direct our ſteps through the irkſome difficulties with which converſation is beſet:—

1. It is a duty to ſpeak the truth as it is, when it muſt neceſſarily be known for promoting the glory of God, our own happineſs and that of others.

2. We ought to keep the truth ſecret, when a declaration thereof would be repugnant to theſe great ends.

3. Great care is neceſſary, that both ſpeech and ſilence, reſpectively warranted by theſe ends, be ſeaſonable with reſpect to time, place and other circumſtances.

4. Where taciturnity is neceſſary, we are allowed to make uſe of thoſe means which are neceſſary for concealing the truth.

5. It can never be neceſſary for us to ſpeak what we have defined to be a falſhood, much leſs a lie, in order to conceal a truth. If the duties of taciturnity have for their object the glory of God, how can an action contrary to the natural laws, which we have proved to be divine, be conſiſtent with that glory?

6. No deviation from truth, contrary to imperfect obligations and laws, or even thoſe which are perfect, provided the

the agent in the latter caſe has not acted maliciouſly, is or can with propriety be called a falſhood or a lie, when higher laws or duties ſuperſede them; that is to ſay, if the one or the other is either phyſically or morally impoſſible. Should we accuſe a man of a falſhood or a lie who has diſappointed us in a meeting, or in lending money, or making a payment, which he had promiſed; when the diſappointment, the trouble, expence, or loſs we have ſuſtained, is cauſed by his ſickneſs, by a robbery committed upon him, or by his forcible detention in captivity?

7. In caſes where it is doubtful whether it is for the glory of God or for our own happineſs and that of others, that we ſpeak or conceal the truth, it will be well to examine the object of ſpeech or ſilence, the time, place, &c. by the various rules of human rectitude. Is it juſt, honeſt, conſiſtent with uprightneſs, with humanity, and with a good conſcience? Is it conſiſtent with decency and propriety? What will be the proximate, what the remote conſequences, &c.

8. No man who ſets a value upon a good conſcience will indulge himſelf with unneceſſary, much leſs with wanton deviations from truth.

9. It ought to be obſerved, that the duties of ſpeech deſerve our moſt careful vigilance; for deviations from a ſtrict obſervance of them are peculiarly hurtful and dangerous, ſince the evil effects of them are not ſo eaſily perceived or avoided as the conſequences of other actions. Falſhoods and lies, like the peſtilence, walk in darkneſs, and invade when no danger is expected; like the father of lies they aſſume various forms—the form of truth, of friendſhip, &c. they wound and kill at a diſtance; they are weapons eaſily concealed, ſoon unſheathed, always at hand, and in every one's poſſeſſion.

We have defined moral falſhood to be that deviation from truth by which we act contrary to our neighbour's imperfect right.

It is our duty to abhor and to avoid *moral* falſhood, becauſe it is our duty to avoid all manner of deceit, impro-

impropriety, inſincerity, diſſimulation and inhumanity; in a word, it is our duty ſincerely to obey imperfect obligations and laws, carefully to reſpect the imperfect rights of others, and conſcientiouſly to avoid a breach of duty.

Sch.—If an indiſcreet declaration of the truth is ſo unbecoming the human character, what idea ſhall we form of the authors of falſhood, of thoſe who countenance calumny, and of thoſe who propagate it? All that can be ſaid is this, that falſhoods have their different degrees of turpitude, according to their effects and various other circumſtances, with reference to the intention of the agent, the abettor, the propagator, &c.

Let it be remembered, that a wilful falſhood has in it ſo much of the malignity of a lie, that it can hardly be diſtinguiſhed therefrom, except that it was not in the power of the calumniator to perpetrate the injury. Characters who deal in falſhood invite the contempt of the diſcreet part of mankind; envy and malice are therefore as impotent as they are reſtleſs. The character of the honeſt and upright man is invulnerable.

A moral falſhood, whereby another ſuffers injury and damage, is a *lie*.

As by ſpeaking we underſtand the exhibiting any ſigns of our thoughts, it is plain, that we can both act and ſpeak lies.

By exhibiting ſigns whereby others are deceived or injured, we are ſaid to become guilty of the *crime* of *falſifying*.

Falſifying by other actions than words ſpoken or written, as the term is taken in its moſt common acceptation, is called *real*, and comprehends forging, coining, counterfeiting, and other injurious adulterations. Falſifying by words ſpoken or written is ſtiled *verbal*, and extends to lies, libels, and other kinds of injurious defamations.

Sch.

Sch. 1.—A well written ſatire is ſo far from being of a defamatory nature, that it is, on the contrary, neceſſary veracity, exerciſed not againſt perſons, but againſt vice, inhumanity, &c.

Sch. 2.—The appellation *lie* is ſo very offenſive and ſo generally abhorred, that it would juſtify a preſumption that this vice has no abiding place on earth. We really might wiſh, both for the honour and for the good of mankind, that fraud, calumny, traduction, &c. would never dare to rear their heads. What a ſorrowful aſpect do electioneering cabals commonly preſent us!

Sch. 3.—It is juſtly obſerved, that lies may be acted: for inſtance; the man deeply in debt is ſtrutting along in the fineſt dreſs at the coſt of his creditors: the man poſſeſſed of a competency, or perhaps bleſſed with great abundance, is always complaining of want, or lives in a penurious manner, and is not free to impart of his ſuperfluities to his indigent neighbour.

Since it is poſſible that ſigns foreign or even oppoſite to the thoughts of the ſpeaker may be exhibited, it follows, that we cannot always with certainty infer the moral truth from what is ſpoken or written; for as little as ſigns are naturally calculated to ſhew with indubitable preciſion the inward ſentiments of the heart, ſo little are we able to penetrate into the thoughts of him who exhibits ſuch ſigns. We may be deceived.

However, as it is abſolutely neceſſary, in many occurrences of life, that, for the glory of God and for our own felicity and that of others, we ſhould know whether our neighbour ſpeaks the truth or deviates from it, and as theſe are the very caſes in which our neighbour is bound ſtrictly to exerciſe the duty of veracity, it follows, that we have not only a right to require, but that he alſo is under particular obligations to give us a convincing proof or teſt of his ſincerity and veracity.

Actions

Actions or declarations uſed as a teſt of our ſincerity and veracity in ſpeaking the moral truth, are called *aſſeverations*.

Aſſeverations are diſtinguiſhed into the *improper*, the *unneceſſary*, and the *neceſſary*.

Sch. 1.—To make uſe of improper aſſeverations, by curſing, ſwearing, &c. is a folly, and a ſtriking mark of a mind as indiſcreet and rude as it is impious.

Sch. 2.—The uſing unneceſſary aſſeverations not only betrays meanneſs in the ſpeaker, but may be taken for a pretty ſure ſign of his want of ſincerity.

Sch. 3.—The neceſſary aſſeverations are again diſtinguiſhed into the *ordinary* and the *ſolemn;* the former ought to be conducted with prudence and propriety, and ſhould ſerve for the purpoſe of private tranſactions; as the expreſſions, it is certain, you may depend upon it, it is true, upon my honour, &c.

Sch. 4.—The ſolemn are principally uſed in tranſactions of a public nature.

No aſſeveration is better calculated for a teſt of our ſincerity, or more ſolemn and awful, than when the ſpeaker calls upon God as witneſs of his thoughts, and as avenger in caſe he ſwerves from moral truth. This ſolemn and awful aſſeveration is called an *oath*.

By the *external ſolemnities* of an oath we underſtand certain external acts, whereby the mind of the juror may be deeply impreſſed with a ſenſe of the omniſcience, omnipotence and juſtice of the Deity, and whereby he ſhews to others that he conſiders himſelf in a moſt particular manner in the preſence of him who is the ſearcher of hearts, the righteous judge of the earth, who can and will puniſh the wicked and thoſe who are guilty of falſifying.

Sch. 1.—There are different ſolemnities in vogue, concerning the propriety, neceſſity and lawfulneſs of which much

controverſy has taken place. There is, however, a pretty general agreement with reſpect to the neceſſity of external ſolemnities, as there are caſes where we ought, by ſome act or another, to be convinced of a perſon's veracity and ſincerity, before it can be expected that we ſhould give aſſent to his teſtimony. But the ſubject of the controverſy is, which are thoſe particular acts? for it does not follow from that general neceſſity, that thoſe adopted by one claſs of people are more neceſſary than thoſe advocated by another. With reſpect to the propriety, it ought generally to be obſerved, that ſuch are moſt eligible as are beſt calculated both for convincing us of the juror's veracity, and for impreſſing his mind with a lively ſenſe of the omniſcience, omnipotence and juſtice of God. However, as a variety of external acts may produce ſuch effects, and as theſe may in a great meaſure depend upon different cuſtoms, habits and ſentiments, it follows, that the propriety of ſolemnities muſt be left optional and undetermined, with this proviſo, that they be not naturally unlawful, that is to ſay, not indecent, not contradictory to the ends for which ſolemnities have been proved to be neceſſary; they muſt conſequently not be trifling, diverting the mind of the juror from a ſerious conſideration of the awful ſituation in which he is making his appeal to the omniſcience of God and the righteous judgment of him who is infinitely powerful, juſt and holy.

Sch. 2.—There are likewiſe ſolemnities neceſſary in tendering the oath. It is highly reprehenſible when the ſolemnities preſcribed by the reſpective laws of countries are exhibited or performed in a careleſs or ſlight manner, as if ſwearing were but an indifferent and ordinary tranſaction. How can we expect that the mind of the juror is properly impreſſed with a ſenſe of his awful ſituation, when he who tenders the oath ſhews hardly any ſymptom of ſeriouſneſs?

Sch. 3.—Since the greater or leſs propriety of the different kinds of ſolemnities in vogue do not eſſentially conſtitute the oath, but are only neceſſary concomitants thereof, it follows, that indulgence from the party who tenders the oath is as commendable as accommodation and moderation on the part of the juror. Things of this kind indeed come with the beſt grace from thoſe who fill the ſtations of fathers

thers of the people: the perſiſting, however, in a particular mode on the part of thoſe who are under the controul of the law of the land, ſhows that prejudice preponderates.

Sch. 4.—The *internal ſolemnity* of an oath, or its eſſence, conſiſting in an appeal to the omniſcient, omnipotent and righteous God as witneſs and avenger, it follows, that, if that appeal is ſincere and our teſtimony morally true, and, as it is expreſſed, the whole truth, it is lawful, however it may have been modified with reſpect to outward ſolemnities: if that appeal is inſincere, and the juror does not ſpeak the truth and the whole truth as far as he knows it, it is unlawful under whatſoever ſolemnities it may have been taken. The ſolemnities do not change the nature of truth; they cannot render that right which is wrong; and vice verſa.

There is another ſolemn aſſeveration, known with us under the appellation of *affirmation*, where the ſpeaker makes only a bare declaration, ſanctioned by the ſolemnity of the act itſelf, that what he ſpeaks proceeds from the ſincerity of his heart, and is the moral truth, and the whole truth as it is known to him.

Our laws, for particular reaſons, admit of ſuch an affirmation inſtead of an oath, and attribute to it all the juridical effects which an oath produces. They very juſtly contemplate it as an expedient well calculated to accommodate the ſcruples of conſcience which ſome perſons have contracted from miſinterpretations of ſeveral paſſages of ſcripture, where mention is made of ſeveral improper modes of ſwearing; which paſſages, however, can be as little againſt the taking a neceſſary and lawful oath, as the ſacred writings can contradict themſelves. We call the accommodation on the part of government juſt, becauſe nothing is more becoming its dignity than lenity, wherever it can be exerciſed in a manner conſiſtent with juſtice and the public good.

No

No perſon, we truſt, can entertain a doubt but that the admiſſion of affirmation in theſe and many other caſes is eligible, as it has all the internal ſolemnities of an oath. Though no expreſs appeal is made to God, ſtill the very act fully amounts to it; for it is a declaration made before an omniſcient, omnipotent and juſt God, who puniſhes falſifiers: no formal appeal can give him a new or an additional right.

Affirmation may therefore be conſidered as an oath made without the external ſolemnities thereof: nay, where it is directed or permitted by law, the very act and the very expreſſions whereby it is made muſt be conſidered as the external ſolemnities.

Sch. 1.—A celebrated author has juſtly obſerved, that the obſcure and elliptical forms of oaths, together with the levity and frequency with which they are ſometimes adminiſtered, have been the cauſe of a general inadvertency to their obligations. He wiſhes, that in many caſes ſomething which might anſwer the purpoſes of a convincing aſſeveration ſhould be ſubſtituted for the formal oath in all its ſolemnities. We ſhall not determine which of the modes is moſt eligible, whether the expedients that author adviſes, or the affirmation, or the practice obſerved in ſome countries, where, for inſtance, the judge aſking, *Can you teſtify this upon your good faith, by giving me your hand in lieu of an oath?* the deponent, by anſwering yes and giving him his hand, has given a full teſtimony as to juridical effects, in all caſes which are not of great moment or ſerious conſequences. Vide Paley's Moral Philoſophy, chap. 16.

Sch. 2.—However much it is to be wiſhed that oaths might become leſs frequent, ſtill it ought to be obſerved, that what can be juſtly affirmed may be juſtly corroborated by an oath; the one is conſequently as ſacred as the other. Let him, therefore, who ſwears or affirms, always remember that he calls God to witneſs, and that he is bound to ſpeak the moral truth as far as he knows it.

Sch.

Sch. 3.—There is a general complaint againſt the taking of oaths for eſtabliſhing the truth in caſes of little conſequence; as, for inſtance, where the object of controverſy is the loſs of one, two, &c. ſhillings. Many an honeſt man chuſes rather to loſe five times the ſum than to take an oath. But in this there is more ſpecious neſs than juſtice and truth. Is it the value of money, or the cauſe of juſtice and truth that renders an oath neceſſary? Is not the greateſt oppreſſion, injuſtice and falſhood very frequently committed in tranſactions where confidence has been placed in the honeſty of perſons, becauſe they have been conſidered as able and willing to fulfil engagements which are not of great moment? Should we be delicate in caſes where the cauſe of injury and injuſtice can boaſt of triumph over virtue and honeſty?

Beſides the criteria heretofore explained of the willingneſs of perſons to ſpeak the moral truth, the making oath or affirmation muſt be taken for particular teſts of the deponent's ſincerity and of the moral truth of his depoſition. No immediate inference, however, can be drawn either from the one or the other, that what is ſpoken is logically or really true; for the ſincereſt and beſt diſpoſed perſons may be miſtaken in their ideas, and, notwithſtanding their veracity, may happen to teſtify a logical falſhood.

Sch. 1.—It cannot, therefore, be immediately inferred from an aſſertion morally true, that it is logically ſo. It is poſſible, too, for a perſon to ſpeak logically true and morally falſe.

Sch. 2.—For inſtance: a perſon over-hearing the converſation of others, where mention is made of a ten pound bill, cannot ſay, conſiſtently with moral truth, that a ten pound bill has been given in payment: the denomination of dollars might have been miſtaken by the party for that of pounds: but he ſwears morally true, if he teſtifies that he heard mention made of a ten pound bill.

Sch. 3.—But from the moral truth we may in many inſtances collect the real circumſtances of particular facts; for, being thereby convinced of the ſpeaker's ſincerity, nothing remains but to aſcertain his capability to ſpeak the real

real truth, in order to be convinced of the reality of the particulars of his teſtimony.

Sch. 4.—Hence the propriety of examining as many witneſſes as we can have; for the circumſtance of many perſons agreeing in their depoſitions leaves leſs doubt with reſpect to the veracity of the witneſſes as well as the reality of the object of their teſtimony.

Sch. 5.—As it is poſſible for witneſſes in theſe caſes to diſagree, ſome not having been in a ſituation to acquire that experience which others have obtained; ſome again not having paid that ſtrict attention to every circumſtance, or not retaining the full recollection thereof, which others have; we may not from this diſagreement infer inſincerity, or charge perſons, from contradictory teſtimonies, with moral untruth: for we are not ſworn, in all aſſertory teſtimonies, to ſpeak the real truth; no authority can bind us to a phyſical impoſſibility; but we are ſworn to ſpeak the moral truth, all that we know, and as it is known.

Sch. 6.—It is an important duty that we teſtify the moral truth, even when we are not called to witneſs, if for want of our evidence the innocent ſhould be wronged or oppreſſed. Our neighbour may often not know that we have any knowledge of certain tranſactions; in ſuch caſe we ought to offer our teſtimony.

Sch. 7.—It is therefore highly criminal, and the agent certainly cannot eſcape the imputation which is conſequent upon the commiſſion of wrong, if he prevaricates or endeavours to evade giving his teſtimony.

Sch. 8.—A moſt ſacred regard for the cauſe of truth becomes us as men and as chriſtians: we ſhould have no reſpect of perſons, neither conſult our own eaſe or popularity, when the cauſe of juſtice and truth calls for the exerciſe of the duty of veracity.

The *validity* of oaths is diſtinguiſhed into natural and legal.

The *natural* validity of oaths conſiſts in their internal ſolemnities, that is to ſay, in the juror's or affirmant's acknowledgment of an omniſcient, omnipotent and juſt God,

God, who will by no means hold guiltleſs, but will puniſh thoſe who take his name in vain.

Idolaters and ſuperſtitious perſons, who attribute to their fictitious deities thoſe perfections, can ſwear an oath which is morally and naturally valid, though it is, in a theological point of view, improper and falſe.

Theoretical atheiſts, and ſuch of the tribe of deiſts as deny the providence of God, cannot ſwear an oath which is naturally valid.

An oath is ſaid to be *legally* valid when it produces a juridical effect, and when tendered and taken under the external ſolemnities eſtabliſhed by the laws of the country.

Hence it follows, that no immediate inference holds good from the natural validity of oaths upon that which is legal, and vice verſa.

Atheiſts, and the afore-mentioned deiſts, complying with the external forms of oaths or affirmations, ſwear legally valid; for they exhibit ſigns which induce others to believe that they acknowledge the omniſcience, omnipotence, juſtice and providence of God.

Oaths are diſtinguiſhed into promiſſory, aſſertory, neceſſary, judicial, voluntary, and purgatory.

By the *promiſſory* oath we confirm our unalterable reſolution to ſtand to our engagements.

By that which is called *aſſertory*, a fact is certified.

If a party before a court refers the cauſe to the oath of another, it is called *judicial*.

An oath is ſaid to be *voluntary*, if one of the parties by private deed refers his cauſe to the oath of the other.

An

An aſſertory oath required by a magiſtrate is ſaid to be *neceſſary*.

An oath is ſaid to be *purgatory*, when we thereby refute ſuſpicion or imperfect proof.

Perjury is that horrid crime where a perſon wilfully and knowingly, under the qualification of an oath or affirmation, declares an untruth to be true.

Sch. 1.—A wilful perjurer is a blaſphemer; for calling God to witneſs what he knows to be falſe is virtually attributing to him imperfections.

Sch. 2.—The perjurer is likewiſe the moral cauſe of all the conſequences reſulting from his inſincerity and falſification.

Sch. 3.—If we reflect upon the general conſequences of this horrid ſpecies of perfidy, that it tends to deſtroy all confidence among mankind, we ſhall find there is no crime more horrid or deteſtable.

Sch. 4.—All authors of aſſeverations which have a judicial effect are guilty of this crime, though they have not formally ſworn or affirmed.

Sch. 5.—From which it follows, that perſons who offer their oath are juſtly deemed as perjured, if they have thereby raiſed an expectation in others to which they intentionally remain unfaithful, or were determined at the time they made that offer to deceive the confidence placed therein.

No oath can be lawful that is extorted, particularly where a man is put into a ſtate of neceſſity, that is to ſay, forced to ſwear upon pain of death.

Sch. 1.—In this caſe ſeveral queſtions ariſe:

1. Whether, under ſuch circumſtances, a perſon ought to have taken an oath, or rather riſked his life?
2. Whether an oath taken under ſuch circumſtances ought to be kept?
3. Whether the breaking ſuch an oath amounts to perjury?

Sch. 2.—The determination of theſe queſtions principally depends upon the conſideration whether the juror was really in an unjuſt manner put into a ſtate of abſolute, extreme or

or reſpective neceſſity, and whether in either caſe his own agency has not led to his being placed therein.

Referring the reader, therefore, to the explanations which we have given of theſe ſtates, we willingly leave the deciſion with the unfortunate perſon, rather than with the dry philoſopher and diſputant, who ſits at his fire-ſide reaſoning on what he never has experienced and perhaps never ſhall.—It is eaſy ſaid, rather loſe your life than take ſuch an oath.

With reſpect to the ſecond particular, it is to be obſerved, that an oath may confirm, but can never conſtitute an obligation. An oath, therefore, cannot bind us to do what is wrong and contrary to all manner of obligations.

As for the third particular, it is plain, that what is unlawful to be taken and unjuſt to be kept, ceaſes to be a crime when diſmiſſed as ſoon as poſſible.

Sch. 3.—It is a wrong idea to ſuppoſe that an oath is a promiſe to God.

Sch. 4.—*Extorted* oaths, where a perſon has been put into a ſtate of unjuſt fear, or threatened with unjuſt violence, have nothing left with reſpect to moral agency in the oppreſſed, but the name without the leaſt ſhadow of validity.

There may be caſes wherein an oath lawfully tendered and taken becomes morally impoſſible with reſpect to a literal performance thereof: for inſtance, the oath of allegiance binds virtually to ſincerity and faithfulneſs towards the ſtate or nation of which we are members: this oath, however, may be literally worded in ſentences which refer to the perſon or perſons adminiſtering the public affairs of that ſtate or nation. Suppoſe ſuch perſons become uſurpers, and ſubvert public good; are we bound to ſupport them in their iniquitous deſigns? No rational man will ſay ſo. No oath can bind us to deſtroy the rights or liberties of our country.

CHAPTER VIII.

Of pacts and pactitious rights.

As long as we depend upon the help and aſſiſtance of others, on the tenure of imperfect right, ſo long our felicity in that reſpect is uncertain and precarious; for others may withhold or withdraw it at a time when it may be moſt wanting: our happineſs, therefore, would be better conſulted, and we might with greater ſecurity and eaſe enter upon purſuits more extenſively uſeful, if we could place ourſelves in ſuch a ſtate as to obtain a perfect right to demand, and in caſe of refuſal, to compel that aſſiſtance.

It is therefore a duty, that we think of lawful means by which the expectation of that aſſiſtance may become of perfect right on our part, and of perfect obligation on the part of our neighbour.

Both reaſon and experience know of no other lawful ways of obtaining ſuch a perfect right in what is naturally our neighbour's own, than by the law of reparation, which we ſhall in future call the *law of forfeiture*, or by his formal and determined will and conſent; that is to ſay, there is no mode, beſides forfeiture, to obtain a perfect right in our neighbour's property or perſon, but by *way of pact*.

Before we can well underſtand the nature of a pact, we muſt have a diſtinct knowledge of all its ingredients.

The *ingredients of a pact* are theſe four: promiſe, conſent, acceptance, and transfer.

By

By *promiſe*, we underſtand that declaration of the will by which we ſignify to another our intention of performing ſomething beneficial to him: if the promiſee offer to the promiſer ſomething advantageous in return, the promiſe is ſaid to be *mutual* or *reciprocal*.

Sch. 1.—No mutual promiſe, or claim founded upon it, can take place without a previous *ſimple* promiſe, or the performance thereof.

Sch. 2.—It is to be obſerved, that ſome authors take promiſe in a ſenſe quite different from that which our definition determines; ſome even deſignate pacts by that name.

Since both ſimple and mutual promiſes are declarations of the will, it follows, that ſuch as cannot exerciſe their will cannot make lawful and binding promiſes.

The exerciſe of the will depends either upon a phyſical or a moral poſſibility.

Thoſe are deſtitute of the phyſical poſſibility who cannot exerciſe their underſtanding, or have not the liberty to exerciſe ſpontaneity; as, children of a certain age, with reſpect to a great variety of things; lunatics and madmen, with reſpect to all manner of objects; perſons in a delirious paroxyſm of ſickneſs: likewiſe, thoſe who are under co-action, or particularly in a ſtate of neceſſity.

A moral poſſibility to exerciſe underſtanding and will has reference to the lawfulneſs of the object of promiſes. If we promiſe a thing that belongs to another, or is repugnant to law, the promiſe is *ipſo facto* void; that is to ſay, it is wrong to make it and unjuſt to keep it. A lawful promiſe may likewiſe become unlawful with reſpect to the eventual performance thereof.

There is alſo a phyſical impoſſibility conceivable

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in promiſes with reſpect to their objects, if ſuch objects are not in our power.

Sch.—In this caſe we may diſtinguiſh three particular circumſtances: 1. either that the promiſer knew the impoſſibility at the time he made the promiſe; 2. that the impoſſibility not then foreſeen happened by the wilful act of the promiſer; or, 3. that the impoſſibility aroſe by accident.

In the firſt and ſecond caſes the promiſer is guilty of intended fraud; in the third he is free from guilt.

Since it is the nature of promiſes to be for the advantage of others, that is, for aiding and aſſiſting them by the uſe of our powers; and ſince our powers are various, either thoſe of the ſoul or of the body, or ſuch as may be derived from our eſtate or influence; nay, ſince by each of them our neighbour may be aided and aſſiſted in an innumerable variety of ways, and in various degrees; it follows, that promiſes, with reſpect to their objects, muſt be inconceivably multifarious.

In whatever manner we aſſiſt others, the conſequence will be, that they poſſeſs our powers as far as that aſſiſtance extends. But ſince promiſe implies an intended aſſiſtance, it follows, that by promiſing we declare our will that ſome of our powers ſhould become another's own, that is to ſay, that what is our own ſhould become another's.

But as from the will of any finite being no immediate inference can be drawn of the exiſtence of things, it follows, that by the promiſe of any finite being the object thereof does not become our own; the bare promiſe, therefore, gives the promiſee no perfect right in the thing which has been promiſed: the promiſer, for inſtance, may change his mind, or the promiſe, with reſpect to performance, may become phyſically or morally

rally impoſſible: it is likewiſe poſſible for the promiſee not to be willing to have the object of the promiſe. So much is certain, that promiſes are among thoſe things which are not and indeed cannot be obtruded.

The leaſt that is required on the part of the promiſee is his conſent, for without this the performance would be deſtitute of an object. We might promiſe to the man of the moon as well as to a perſon who rejects our offer, with this difference, that in the latter caſe we ſhew more diſcretion, and act from principles of philanthropy.

Moral conſent conſiſts in an identity of will declared, or ſuppoſed to be declared, by free agents, with reſpect to the chuſing or rejecting of particular objects.

Perſons not having the phyſical faculty to will, cannot conſent; as, children, with reſpect to many things; lunatics and madmen, in all caſes; perſons in a delirious ſtate, cauſed by a natural derangement of their faculties; and all who are under co-action, particularly in a ſtate of neceſſity: for in theſe caſes agents have not the exerciſe of underſtanding, or no room left for exerciſing ſpontaneity: they may utter words, or do actions, which, by a grammatical conſtruction, denote what may be called *phyſical* conſent; but as no moral agency takes place, the conſent is not moral, and conſequently void.

Sch.—There is a vaſt diſtinction between the promiſe or conſent of a perſon in a delirium occaſioned by ſickneſs, and that of perſons who have placed themſelves in ſuch a ſtate by intoxication and drunkenneſs: it is true, in both caſes the agents know not what they do or ought to do; but in the firſt the actions are not moral, and in the laſt they may have different degrees of immorality and guilt.

Perſons have not the moral poſſibility to will, when the object of their intention is unlawful: we may not conſent,

conſent, that what belongs to others ſhould be made uſe of or be taken away; neither may we conſent to things which are repugnant to the dictates of the natural laws: ſuppoſe things which are lawful ſhould become, in courſe of time or under circumſtances, of a contrary nature or tendency, it cannot be juſt that we continue our conſent.

Unlawful conſent, with reſpect both to its origin and continuance, is not only void, but alſo criminal and wicked, with reference to the moral cauſe as well as to the proximate.

Perſons who do not underſtand one another's meaning, cannot exerciſe an identity of will; conſent, therefore, in ſuch circumſtances, is void: if it proceed from the ſpontaneity of one or the other party, it becomes more or leſs criminal, according to the various degrees of immorality flowing from the intention of the agent and effect of the deception.

Since an identity of will implies a purpoſe that ſome effect ſhould take place, that is to ſay, that ſomething ſhould be brought into exiſtence; and ſince nothing exiſts but what is of an individual nature; it follows, that the object of conſent muſt be particularly determined, and that moral conſent is and in its nature muſt be *particular*.

Univerſal conſent is therefore only *ideal*, and may be ſaid to find place where a latitude is left with reſpect to the particular actions, as well as the modes and manner, by and in which a purpoſe may be obtained or effected.

Sch. 1.—Still the purpoſe is always ſomething of an individual nature: if the end is juſt, we may be ſuppoſed to conſent to all juſt means leading to that end, but not to thoſe which are of a contrary nature: for inſtance; I conſent to

to let a perſon have a certain part of my property, provided he ſatisfies my creditors; he may do that by paying caſh, or giving other ſecurity, &c. But ſuppoſe he robs another perſon, and ſatisfies my creditors with the money he has thus unjuſtly taken away; can any part of this wicked deed be charged to my account upon that general or univerſal conſent?

Sch. 2.—If we reflect on the legiſlative and executive powers of government, there ſeems to be an univerſal or general conſent of the people neceſſary for the exerciſe of thoſe powers in enacting and putting into execution public laws and ordonnances, which are things eventual, and of ſuch a nature that they cannot be determined: however that may be, it ought to be obſerved, that, in free governments, neither the perſons adminiſtering thoſe powers, nor the effects of the exerciſe of them, with reſpect to the purpoſe and ultimate end of the conſent of the people, are things of a general nature. The purpoſe of my vote at an election, with reſpect to the repreſentative body of the people, is eventually for that individual perſon who has obtained the majority of votes. The conſent, likewiſe, of citizens, with reſpect to laws, becomes ſpecific if referred to each particular clauſe which they contain, or rather is ſpecific, becauſe it concentrates in every thing that is found by the majority to be moſt conducive to the public good.

Sch. 3.—Gentlemen who confer the title *my conſtituents* ſolely upon the county, diſtrict or ſtate from which they derive their political exiſtence, or who conſult its intereſts ſeparate from the intereſt of the whole, have not ſufficiently conſidered that they hold their ſtation by the conſent of the country in general, and that they muſt conſult the public happineſs of all if they do juſtice to their conſtituents.

Sch. 4.—The regulations and ſpecific laws, therefore, in all their particular clauſes, bind every citizen, as they have taken place by his conſent, and muſt remain his laws as long as they are judged by the majority to promote the public good.

Where there is no identity of will, there cannot be a conſent: if, therefore, it ſhould be an object of enquiry,

ry, whether a perſon has or has not conſented, it muſt be made to appear that he is or has been willing, or muſt be ſuppoſed to be either the one or the other, with reſpect to ſome particular effect or conſequence.

There are various ways, therefore, by which the conſent of perſons may be inferred: it is either declared by words, that is, by ſigns which are in common uſe for exhibiting our thoughts, or is collected from actions and ſigns different from words; or it follows from the nature of things, and of other particular circumſtances. In the firſt caſe, conſent is called *explicit*, in the ſecond *tacit*, in the laſt it is ſaid to be *conſtructive*.

Sch. 1.—Both explicit and tacit conſent is diſtinguiſhed into certain or probable: to form a judgment of the one or the other, it is neceſſary that words be interpreted in their moſt ordinary ſenſe, or in the ſenſe in which it appears from other ſigns that they were intended to be uſed. With reſpect to tacit conſent, we muſt judge whether an action has been performed with a view to raiſe a belief in others of our conſent, or is known naturally to excite ſuch a belief. The cuſtoms of places and countries and the complexion of other circumſtances will be a great help for determining whether tacit conſent is certain, ſuppoſed, or only pretended.

Sch. 2.—Conſtructive conſent is of the utmoſt importance, and therefore particularly worthy our attention: it is by this that conſtitutions and laws are binding upon poſterity—a ſubject which a late writer ſeems to have ſeriouſly diſputed, denying that there ever has been any binding force upon poſterity in any thing which their progenitors might have done. Suppoſe but for a moment, that there is truth or propriety in this aſſertion; the conſequence will be, that no country can have conſtitutions or laws binding any perſons at all. The framers of a conſtitution are perhaps all called from the ſtage of human affairs; laws exiſt, the authors of which now lie in the duſt; a new generation has taken the room of their progenitors: if they are not ſubject to the regulations which their fathers

thers made by conſtructive conſent, how can it be proved that they are ſubject at all? The miſtake ſeems to proceed from the erroneous idea, that men enter life in an abſolute natural ſtate, having no connection with nor relation to others; which is as abſolutely contradictory to experience, as it would be impoſſible for new generations to be happy without proviſions of this kind being made by their anceſtors: for it is known, that men come upon and withdraw from the ſtage of life ſo imperceptibly and ſo gradually, that it would be very difficult to pitch upon a time when the public acts of the preſent day would not have as proſpective an influence on poſterity, as thoſe of our forefathers had on the preſent generation.

As long, therefore, as poſterity abide under that conſtitution and thoſe laws, as long as they reſide under their government, ſo long they muſt be deemed to have given their conſent. We allow that a diſſenter may withdraw himſelf from the country which is under the juriſdiction of thoſe laws, but we do not deem it juſt that he ſhould have a right to attempt ſo hazardous an enterpriſe as to change them to his liking. Let the majority of the people at any time make uſe of that better eſtabliſhed right of nature, by which a community may govern itſelf, as it is found beſt for the advancement of general happineſs.

Sch. 3.—It is upon tacit and conſtructive conſent that the laws and conſtitutions are binding upon each individual of the ſtate: a ſtranger taking up his reſidence in a country is preſumed to be willing to comport with its laws: he who gives free acceſs to his houſe, is ſuppoſed to conſent to a free departure: he who aſks in a tavern for victuals, drink, &c. is ſuppoſed to have given his conſent to pay.

Sch. 4.—It is upon conſtructive conſent that we claim a right, given to our firſt parents, to the creatures of the earth; it is upon this conſent that we have been parties in the covenant of works concluded with them.

Sch. 5.—Theſe diſtinctions of conſent are likewiſe applicable to promiſes: we may expreſſly promiſe by words which render the promiſe certain, or only probable. The ſame may be the caſe with reſpect to tacit promiſe: nay, there is likewiſe ſuch a thing as conſtructive promiſes.

As ſoon as the promiſee gives his conſent to the

promiſe, he declares that he will have the thing promiſed for his own; for in this caſe both his will and that of the promiſer meet, and without it no conſent could take place, as there would not be an identity of will.

But as nothing reſults from conſent but will, it is evident, that from conſent to promiſes a perfect right can with no more propriety take place, than a promiſe made can put the promiſer under a perfect obligation to keep it.

It is no more than imperfect right and obligation, and therefore reſts upon the perſon's own diſcretion and choice, whether he will or will not perform it; that is, there is no force or compulſion.

We ſtand to our promiſe if we actually and finally do for another's advantage what we have declared to be our intention.

We are moſt ſacredly bound to beware of all manner of improper or unlawful engagements, and faithfully to perform all our lawful promiſes; for it is a ſacred duty, that we act conformably to the precepts and prohibitions of imperfect obligations and laws, and make it an invariable rule to ſpeak the moral truth.

He who is ſtrict in obſerving his promiſes is a man of *probity*; a contrary character is juſtly reckoned deſpicable: a man who forfeits his word is either guilty of great indiſcretion, or is a diſhoneſt impoſtor; he deſervedly loſes his character and credit: theſe being gone, there remains nothing worthy the eſteem of an honeſt man.

From what has hitherto been explained it follows, that if promiſe and conſent reſpectively produce perfect

right

right and obligation, both the one and the other muſt be ſupported by certain acts from which theſe effects reſpectively reſult.

That act which the promiſee performs in conſequence of his conſent, in order to have a perfect right in the thing promiſed, is called *acceptance*.

An act that produces ſuch a right muſt be lawful; but no act, whatever its other qualities may be, can be lawful, that is to ſay, can be a mean by which we lawfully acquire a perfect right in what is another's own, except he conſents to it, and conſequently ſupports his promiſe by an additional act, declarative of his acquieſcence in the acceptance of the promiſe. Such an act on the part of the promiſer is called *transfer*, becauſe his will, ſupported by an act of his own, is a ſufficient cauſe why the other ſhould have compenſation for the trouble he has taken in performing acts which the promiſer has encouraged, and by ſubſequent conſent has directed and appointed: for the powers by which he thus acted were his own, and non-performance on the part of the promiſer would naturally amount to a diſturbance in what would be the property of the promiſee, for as ſuch the fruit of his labour muſt be conſidered.

The promiſe, on the part of the promiſer, with reſpect to the acceptance, is conditional; as if he were ſaying, if any perſon does ſuch a thing, I will give him ſuch a thing for his own. If the promiſe is addreſſed to a particular perſon, it may be called *perſonal*, becauſe the promiſer conſents to a certain act under this expreſs condition, that the promiſee be the particular agent thereof: but if it be addreſſed in general to the performer of a ſpecified act, the promiſe is *real*, becauſe any author of that act is the promiſee, or rather the acceptor.

If,

If, on the other hand, the act ſpecified in that condition is performed, the performer, according to the tenor of that condition, is to look upon the thing promiſed as his own, as the fruit of his labour; that is, he has obtained a perfect right in it, and the promiſer is under a perfect obligation to make good his promiſe.

Where, therefore, there is acceptance with the conſent of the promiſer, there *acceptance is effectual*, and transfer has taken place.

Sch.—It ought to be particularly obſerved, that conſent on the promiſer's part is moſt eſſentially neceſſary for rendering acceptance effectual; for, as the owner, he has a right to direct the things promiſed as he pleaſes, and to ſpecify the conditions upon which he will part with his property. If the promiſe is perſonal, no other but the perſon deſcribed has a right to acceptance; if it be real, no one has a claim as acceptor except he who has done that particularly ſpecified act which the promiſer has engaged to take as an acceptance: for inſtance; if a father tells his youngeſt ſon that he will give him a watch if he learns his catechiſm within ſuch a time, can the ſervant in the houſe or any of his other ſons claim the promiſe, if the requiſition has been complied with by either of them? or if you engage that any perſon who ſhould be able to give you notice of a certain ſtrayed horſe ſhall have ſuch a ſum of money, are you bound to pay one who comes and gives notice of another of your horſes which had not ſtrayed? Certainly not.

By *ſtipulations* are underſtood particular actions or forms, which the laws or cuſtoms of a country or place have introduced for the purpoſe of taking the place of thoſe acts by which acceptance and transfer are performed.

Sch. 1.—Stipulation is a word of Roman origin, and is derived from their particular cuſtom of accompliſhing pacts and contracts: it was thus: two perſons took a piece of ſtraw, broke it in two, and then exchanged pieces. Thus acceptance was made, conſent to it given, and the requiſite acts

acts performed, both on the part of the promiſer and of the promiſee, for transferring perfect right.

Sch. 2.—Inſtead of the ſtipulations of the Romans, the modern Europeans have introduced, for the moſt common tranſactions of life, certain words, expreſſions, or ſigns; as, *'tis a word—done—may I depend upon it?—you may—ſhaking hands—nodding—ſtriking with a hammer at vendue—giving an earneſt—aſking the price at markets or in ſtores, and conſenting to this price, &c.*

Sch. 3.—Since the art of writing has become general, the ſtipulations requiſite in the more important occurrences of life muſt be done in writing: ſome are confined to this alone, others require hand and ſeal, and others again, beſides theſe, a certain number of witneſſes.

From what has hitherto been explained it appears, that effectual acceptance includes promiſe, conſent, acceptance and transfer; that is to ſay, all the requiſites neceſſary for conſtituting a pact: a *pact* may therefore be defined to be *a promiſe effectually accepted.*

There are various denominations or ſpecies of pacts; as, treaties, compacts, contracts, covenants, agreements, bargains, ſales, &c.

That pact is ſaid to be *formal*, which comprehends promiſe, acceptance thereof, and the promiſer's conſent to the acceptance.

That pact is *informal*, where a conſtructive promiſe or conſent takes place.

Explicit pacts are ſuch as contain explicit promiſe and conſent; but thoſe in which tacit promiſe or conſent takes place, are called *tacit* pacts.

Perſons who cannot promiſe or conſent cannot be parties to a formal pact, whether tacit or explicit.

A pact is void when either promiſe or conſent is not in the power of either party.

Sch.

Sch.—If the impoſſibility of performance has been known by the promiſer, or if it has been wilfully cauſed by him after the pact has been concluded, he is guilty of perfidy, fraud and injury.

A pact wherein either the promiſe or conſent is unlawful, is invalid and unlawful.

If the terms of a pact admit of different conſtructions, the performance is to be made in the ſenſe which the promiſer apprehended at the time the acceptor received it.

Sch.—Having laid down the three requiſites for a formal pact, to wit, promiſe, acceptance, and conſent to this acceptance, or what is called transfer, it ought to be obſerved, that we do not in all tranſactions find them always diſtinctly exhibited, ſo that it requires ſome deliberation to determine who is the promiſer or acceptor; as, for inſtance, in ſtores and markets: the goods or proviſions exhibited are doubtleſs promiſed on condition of acceptance, that is, a certain price ſtipulated: the buyer conſents by aſking the price, and ſupporting it by paying what is required, the bargain is concluded.

In all caſes, except that of forfeiture, where we make uſe of another's property without his conſent to our acceptance, we are chargeable with *uſurpation*.

A *proteſt* is an explicit declaration of our diſſent to certain proceedings, and a ſuitable and neceſſary expedient for the preſervation of our rights, particularly in thoſe caſes where ſilence might be conſtrued into tacit conſent.

Since by the ſtipulations of a pact the promiſer has transferred his own to another, inveſting him with a perfect right to diſpoſe thereof as he ſhall pleaſe, it follows, that the former is under perfect obligation to perform what he has thus promiſed and aliened.

Hence

Hence it likewiſe follows, that the acceptor has a perfect right to demand, and in caſe of refuſal, to compel performance.

Pacts extorted by unjuſt fear, or by the violence of one of the parties, are void for want of *moral conſent*; but if that fear has been occaſioned by perſons who are not a party, or who are not in colluſion with one of the parties, both parties have acted freely, and the pact is valid and binding; for a fault committed by a third perſon cannot be prejudicial to one who is guiltleſs.

The duty of performing pacts has reference ſolely to ſuch as are lawful; for illicit plots, or unlawful agreements or combinations, deſerve not that honourable name.

Sch.—To form an eſtimate of the lawfulneſs or validity of a pact, we muſt particularly attend to the nature of the promiſe and conſent, both with reſpect to the parties and their objects.

The perfect rights and obligations reſulting from pacts, are called *pactitious*. Pactitious rights are reckoned among the *perſonal* rights of men.

If the promiſer makes a declaration that he has changed his will, he is ſaid to revoke; but as ſuch a revocation cannot juſtly take place when the promiſe is effectually accepted of, except by the conſent of the acceptor, it follows, that pacts are *irrevocable*.

Pacts are diſtinguiſhed into *obligatory*, *liberatory*, and *mixt:* by the firſt an obligation is conſtituted; by the ſecond a ſubſiſting obligation is done away; by the laſt a new obligation is ſubſtituted in the place of one formerly ſubſiſting between the parties.

There is likewiſe a diſtinction of pacts into *pure* and *conditional:* thoſe pacts are conditional, where the promiſe

miſe is made with the expreſs proviſo of its becoming binding upon a future event, the exiſtence of which is uncertain. The obligation of performance in a conditional pact depends upon the exiſtence of an uncertain event; as, for inſtance, ten years hence if I live, or when I ſhall enter upon a certain inheritance of which I have ſome expectation, &c.

Sch.—A certain event does not make a pact conditional though it be ever ſo diſtant.

Pacts made upon an impoſſible condition are void: if the promiſer knew the impoſſibility, or if he is the cauſe thereof, he is guilty of fraud.

A pact to which no expreſs condition is annexed, is *pure*.

Pure pacts are binding immediately upon being concluded; the conditional only when the condition takes place.

The moſt notable of conditional pacts are thoſe which come under one of theſe forms: *do ut des*, *do ut facias*, *facio ut des*, *facio ut facias*; that is, where the parties ſtipulate *value for value*, *value for work*, *work for value*, *work for work*; as, money for goods or for victuals; money, goods or proviſions for labour or ſervices; work, labour or ſervices for money or goods; work, labour or ſervice for another kind of work, labour or ſervice, or perhaps for the ſame at another time.

Rights are *temporary* or *perpetual*: the former are reſtricted with reſpect to time, which is not the caſe with the latter.

A pact by which temporary rights are transferred, ceaſes when thoſe rights expire, though no expreſs condition

condition be annexed. Parents, for inſtance, have no right to bind their children beyond the term of their minority: an indenture, whether conditioned or unconditioned, has no binding force when the term of minority expires.

He who is obligated by a pact to expedite the affairs of another, is called a *mandatary*, whilſt the latter is ſtiled his *principal*.

No one can claim the right or truſt of a mandatary who cannot make it appear that certain affairs are ſpecifically committed to his care; becauſe the principal's conſent muſt be ſuppoſed, and there is no ſuch thing as univerſal conſent.

As the mandatary, by undertaking the commiſſion of the affairs of another, is under a perfect obligation to fulfil his charge; ſo the principal has a perfect right to compel ſuch commiſſion, and in caſe of non-performance or mal-practice, to recover damages.

A *commiſſioner* is mandatary in all that is ſpecifically entruſted to his care, and the principal is reſponſible for whatever he does in purſuance of this truſt, but is clear of all whereby it is exceeded.

Sch.—The ſpecific powers are either explicitly determined by credentials, inſtructions, &c. or are deduced from tacit or conſtructive conſent, as they reſt upon the cuſtom or general practice of tranſactions of that kind, or flow from the nature of the truſt itſelf.

A principal may conclude valid pacts with others by the agency of his mandatary; for the moral and principal cauſe can produce effects by others.

Pacts concluded with a mandatary, in the name of his principal, are binding upon the latter in all that the

former has done in virtue of ſpecific powers for that purpoſe.

There are ſome rights transferred, which, in their nature or under particular circumſtances, involve the right of a mandatary; that is to ſay, imply ſpecific truſt: what, therefore, a perſon does in purſuance of ſuch rights, is as binding on his principal as if he had given a ſpecial commiſſion for the purpoſe; as, a general in procuring ſupplies, ſurrendering fortifications, conſenting to a temporary armiſtice, &c. a ſervant ſent abroad with a waggon, coach, &c. in having neceſſary repairs made, &c.

Pacts are diſtinguiſhed into *unilateral* and *bilateral*. In the former there is but one promiſer, and acceptance is juſtly ſuppoſed, becauſe no reciprocal engagement is required. Of this kind of pacts are laſt will and teſtament, legacies and donations, which for this reaſon have obtained the name of *gratuitous pacts*. To this kind of pacts likewiſe moraliſts refer commiſſions undertaken gratuitouſly, gratuitous loans for uſe, gratuitous keeping of the goods of others, &c.

In bilateral pacts there is reciprocal promiſe, conſent, acceptance and transfer. Acceptance and transfer cannot here be ſuppoſed, but are required by virtue of perfect right in both parties. Of this kind of pacts are treaties, compacts, contracts, &c. which for this reaſon are called *onerous*, becauſe ſomething is required on both ſides.

There may be pacts of more than two parties; for inſtance, the triple and quadruple alliances recorded in hiſtory; the combination of the powers of Europe, ſo much the topic of converſation at this time, &c.

Pactitious

Pactitious rights and obligations may *ceaſe* in various ways.

In a conditional pact the obligation ceaſes when the condition becomes impoſſible.

In any other pact, when the pactitious right is remitted.

Pacts are *diſſolved* when both parties remit their reciprocal pactitious rights: the diſſolution then proceeds from mutual conſent.

Perfidy in one of the parties to a bilateral pact frees the other from obligation, if he chuſes to avail himſelf of that expedient; if he is otherwiſe inclined, the pact is ſtill binding on the perfidious party, who is liable to proſecution and bound to make reparation.

In a matrimonial contract there are various cauſes, both with reſpect to its nature and tendency, which render it indiſſoluble even by the mutual conſent of the parties.

PART II.

Sect. II. *Comprehending natural juriſprudence.*

CHAPTER I.

Of rights in things.

WE are ſaid to *diſpoſe* of things, if we determine, by an act of our will, the mode and manner in which they are to be uſed by others.

Sch.—Thus we diſpoſe of lands, of houſes, proviſions, apparel, &c. if we ſell, leaſe, exchange, or make a preſent of them, &c.

Thoſe who have not the exerciſe of underſtanding, cannot ſignify their will in the moral ſenſe of the term, and are conſequently incapable to diſpoſe of things.

Sch. 1.—In the forum of nature, children cannot diſpoſe of things of importance before they arrive to years of diſcretion; and as this may take place ſooner or later with reſpect to different individuals, the civil laws, which exhibit general rules for human conduct, have aſſigned a determinate number of years, antecedent to which no diſpoſitions of youth are binding or valid: no male perſon, for inſtance, can convey landed property before a certain age, though he may lawfully make a preſent of ſomething belonging to his perſonal eſtate, &c.

Sch. 2.—Lunatics, madmen, perſons not *compos mentis*, or deranged in their minds by a frantic fit of ſickneſs, cannot make any valid diſpoſitions as long as they are in that ſtate of natural imbecility.

Sch.

Sch. 3.—Neither can ſuch diſpoſitions be lawful where the things diſpoſed of are in themſelves unlawful, or not our own.

Sch. 4.—Things our own and lawful in themſelves, cannot render a diſpoſition of them lawful when it is made for a bad end; for in this, as well as in the two preceding caſes, we have not a moral poſſibility to will.

If we may lawfully diſpoſe of things, we are ſaid to have a right in them.

The things of which we may diſpoſe are either the actions of men, or the neceſſaries and conveniencies of life, and what contributes thereto: in the former caſe our right is ſtiled a *right in perſons*; in the latter, a *right in things*.

Sch.—Rights in things are diſtinguiſhed into *real* and *perſonal*: the former have reſpect to things which cannot be carried out of their places, as *lands* and *tenements*; the latter take place in ſuch things as may attend the owner's perſon wherever he thinks proper to go; as, money, goods, horſes, waggon, utenſils, furniture, &c.

Of whatever deſcription things may be, there are various ways in which they may be diſpoſed of; for things have their ſubſtances, and from theſe ſubſtances various emoluments may be drawn, and each of them may be diſpoſed of for various ends, and under a variety of reſtrictions; ſo that it would be an endleſs work to enter upon all the particulars which laws and cuſtoms have introduced concerning the nature and modifications of the rights in things, and in conſequence of them have been and for the moſt part are ſtill in vogue.

We ſhall here principally confine ourſelves to the conſideration of the right of property, of uſe, and of uſufruct, and the right of conſuming the ſubſtance of things.

We

We have the *right of property* in a thing, when we may diſpoſe of its ſubſtance and all other uſes.

Sch.—Thus a perſon has a right of property in an orchard, when he may diſpoſe of the trees and of their produce, and when he can extend his right of diſpoſal to the deſtruction of the trees or of their produce.

In the right of property we may diſtinguiſh the moral poſſibility of acting, from the act itſelf; a perſon may have a right, and not exerciſe it of his own accord, or be debarred from that exerciſe by a reſtriction in his right. This is what moraliſts denote when ſpeaking of a right in *actu primo* and a right in *actu ſecundo*. Both theſe acts together conſtitute perfect dominion, *ſtrict property*, where one may diſpoſe of it as he pleaſes, in a manner conſiſtent with the law of nature. Imperfect dominion, on the contrary, is reſtricted with reſpect to the exerciſe of ſuch an unlimited diſpoſal; as is the caſe with minors, who by law or deviſe are proprietors of an eſtate, which is under the management of others until they become of age.

Where the right of property and the exerciſe thereof are in different perſons, there a right of commonry reſults, extending to the excluſion of all others from diſpoſing both of ſubſtance and emoluments.

When the right of property and the exerciſe thereof are in ſeveral hands, each party thus intereſted may exclude all thoſe who have no intereſt in it from diſpoſing of the ſubſtance and emoluments: but copartners may exclude one another only from the diſpoſal of the ſubſtance and from hindrance in their actual uſes: a tree, for inſtance, may be common property, and each may take the benefit of its ſhade; but a partner occupying a particular ſpot, has the excluſive right to it as long as it is occupied by him.

Perſons

Perſons having a ſtrict right of property in a thing may retain its ſubſtance, if it is inconſumable property, and diſpoſe of the emoluments under various reſtrictions: if the emoluments are for the own and proper uſe of the party to whom the proprietor has conveyed the property, his right is called *uſufruct*, and he himſelf the *uſufructuary*; if it is conveyed for the benefit of another, he has the right of uſe, and is ſtiled the *uſuary*. However, as we do not intend to enter upon particulars, we ſhall hereafter call all rights in the emoluments of things, *rights of uſe*.

In caſes where the uſe or uſufruct cannot be drawn from the property without the deſtruction or conſumption of the ſubſtance, the right of uſe and uſufruct implies the right of conſuming the ſubſtance.

Sch.—We cannot make uſe of ſalt, flour, &c. without conſuming the ſubſtances of thoſe things: we ſhould draw but indifferent profits from a rented farm, if we might not cut the timber neceſſary for fences, houſes, firewood, &c.

As the rights of uſe, uſufruct and conſumption flow from the ſtrict right of property, it follows, that things which admit not of an excluſive right of uſe, uſufruct or conſumption, are not ſubjects of the right of property; that is, no property can be had in them; as, the open ſea to a certain diſtance from ſhore, inexhauſtible fiſheries which ſuch ſea affords, the air, &c.

He who has the ſtrict right of property may diſpoſe of the ſubſtance and its emoluments as he pleaſes, becauſe all are his own. What is commonly ſaid, that a proprietor in diſpoſing of his property is reſponſible only to God and his own conſcience, is ſo far true as that diſpoſition is conſiſtent with the general good of mankind,

mankind, but not further; for, though a proprietor has a right to diſpoſe of his property as he pleaſes, ſtill he ought not to be pleaſed with any thing that is contrary to natural laws: the right of property is limited as well as all other rights of men, and in caſes of colliſion, muſt give way to weightier obligations and rights. It is the eſtabliſhed order of nature, that all men have their ſubſiſtence from the contents and produce of the earth; there cannot, therefore, be a natural right to ſet up an ownerſhip, or to diſpoſe of the things of the earth in a manner contradictory to the general good of mankind: nay, a right of property, a right to diſpoſe of things as we pleaſe, ceaſes to be natural as ſoon as it is inconſiſtent with the general rights of mankind.

Sch. 1.—Hence it may be ſeen, that perſons may, conſiſtently with the principles of natural law, make diſpoſitions of their property and other rights, which take effect after their death, in behalf of their children and neareſt relatives and friends; becauſe ſuch diſpoſitions are perfectly conſiſtent with the general rights and obligations of mankind, and are required by that duty of love which nature has enjoined to men in that intimate relation.

Sch. 2.—A diſpoſition, on the contrary, by entailment, is unnatural, becauſe it is inconſiſtent with that love, ſince the diſpoſer ſuffers himſelf to be ſwayed by unnatural partiality, and lays the foundation of ſervitude and domination, of ſtrife and diſcord, among his own houſhold, among the children of one father, among natural brethren. In order to render one independent, he makes the reſt of his children dependent, and throws them upon the public: he is not prompted by love to his children or country, but by an ambition that proves injurious to both.

Sch. 3.—It ought to be obſerved, that unlimited and excluſive right in things, mentioned in the ſequel, is always to be underſtood under this limitation, that it muſt be conſiſtent with the order of nature, and of conſequence with the eternal principles of natural law.

As the proprietor is veſted with a perfect and excluſive right, with reſpect to the ſubſtance and emoluments of his property, ſo all the rights which he conveys are of a perfect and excluſive nature.

If, therefore, he has once conveyed any right connected with his property, thoſe perſons who are veſted therewith have not only a right to exclude others, but even the proprietor himſelf, from interfering in their reſpective rights. It is on this account that not only common converſation, but even treatiſes on the ſubject of rights in things, attribute to the rights of uſufruct, of uſe, and of many other kinds of tenures, the name of property.

At this rate, the uſufructuary has a right of property in the uſufruct, the uſuary in the uſe, &c.

As the proprietor is injured if the uſuary or uſufructuary waſte his ſubſtance in an unneceſſary manner, ſo the latter may be injured by the proprietor, when hindered from the ſubſtance abſolutely neceſſary for the exerciſe of their reſpective rights: beſides this, they have a peremptory right to exclude the proprietor and all others from interference in the emoluments to which their rights entitle them.

As the right of property is immediately connected with *the right of poſſeſſion*, *the right of reclaiming poſſeſſion*, when others unjuſtly retain propery for their own uſe, and *the right of alienation*; ſo are the one or the other, or both of the former, connected *per ſe* with the rights of uſe and uſufruct, when the emoluments cannot be drawn without poſſeſſion, but not otherwiſe: the right of alienation cannot extend farther than their rights extend, and it is poſſible that the

the proprietor has granted thoſe rights under the expreſs reſtriction that they ſhould not be transferred.

Sch.—If a farm is rented to a perſon and his aſſigns, he can alienate the uſufruct as far as it is given him and for the term of his leaſe: but if aſſigns are not expreſſly mentioned, the civil laws will not permit the right of alienation, becauſe ſuch things ought to be expreſſly ſtipulated for the preſervation of peace in the community; while, on the contrary, natural law would permit ſuch alienations as far as they are not prejudicial or injurious to the proprietor.

With reſpect to the various tenures of rights in things, thoſe authors may be conſulted who have expreſsly treated of them. So much ſeems neceſſary to be here obſerved, that all thoſe rights which are in vogue amongſt Europeans, are of a feudal complexion, with this difference, that the ſmaller parcels of landed property are held for the conſiderations of rent, or part of the produce, when the more extenſive poſſeſſions are in the ancient form of ſervices.

By the feudal ſyſtem, the conqueror, in whoſe place modern times have ſubſtituted the higheſt authority in a ſtate, conveyed property under a certain reſervation of right. He obtained the appellation of *Lord Paramount:* the latter was ſtiled ſimply *Lord*, or *Vaſſal.*

Sch. 1.—When the King of Great-Britain had juriſdiction over the country now the United States of America, he gave whole provinces to certain proprietors, reſerving to himſelf and his ſucceſſors a pepper corn, a beaver ſkin, &c. as an acknowledgment of his ſovereignty and their dependence: the dependent lords parted in a ſimilar manner with their property, for a certain conſideration and for an annual quit-rent. Our ſtate reſerves all mines and precious metals, &c.

Sch. 2.—The ſeveral manors which are extant in the United States, and the thouſand lordſhips which are in embryo and threaten this weſtern world of freemen with tenantry and

and dependence, make it worthy the attention of ſome able pen, a friend of mankind, to bring to public view the fatal conſequences of feudal laws and cuſtoms. Of freeholders it may be ſaid what Virgil extends to the uſeful claſs of huſbandmen in general:

" *O! nimium fortunatos, ſua ſi bona norint,*
" *Agricolas*————

Sch. 3.—Thoſe who cannot be freeholders, and of conſequence are tenants, might live free and independent as well as the former in this country, where all citizens are on an equal footing, if, as the poet ſays, they knew their advantages; if they would ſet a proper value upon their rights of citizenſhip, and not, like Eſau, ſell them for a ſmile of their landlord. Is it not ſufficient that you pay your rent and make good what the proprietor of the ſoil has a right to demand? Should you deliver up to him your rights of thinking and of chuſing for yourſelves? Indignant boaſt! that men peremptorily proclaim that they can procure ſo many hundred votes at an election; that another ſpeaks of his great influence, &c. Let every freeman learn to know his own importance; let him learn to know his rights; let free Americans learn to ſcorn the man who pretends to influence at the price of their own character: for what is the man who ſuffers himſelf to be ſwayed and led as others think proper? I anſwer, ſo little a freeman, that, in ſuch inſtances, he renders it doubtful whether he is a free or a moral agent.

CHAPTER II.

Of the originary mode of acquiring rights in things, eſpecially the right of property.

THERE cannot indeed be ſuch a thing as ſtrict property by a right derived from nature conſidered in itſelf; for preſuppoſing here what may be clearly ſeen by reaſon, and is expreſsly declared by ſcripture, that the

the earth and the various kinds of the produce thereof are proximately deſtined by the creator and preſerver of the whole univerſe for the uſe of man; ſtill there is nothing, either in the nature of men or in that of things, which warrants that ſole and perfect dominion which one man claims and exerciſes over the things of this world excluſive of the right of others.

All that can be inferred from both theſe ſources is, that the individuals of the human race, as they have the ſame nature, labour under the ſame neceſſities and wants, and feel the ſame deſires, have an equal right in the ſubſtance and uſes of all thoſe things which are provided by the Moſt High for the neceſſary ſupport of their exiſtence on earth, or which are calculated to afford them the conveniencies of life.

Men, therefore, conſidered in their abſolute ſocial ſtate, as fellow citizens of the earth, have a natural right of commonry, where no man may exclude others in a deſpotic manner from occupying the ſubſtance of things, or from uſing their emoluments, except it be in conſequence of ſuch reſtrictions as flow from the invariable order of nature, eſtabliſhed by the infinite wiſdom and power of God, whoſe will is the ſupreme law for the regulation of the conduct of men, in the uſe they make of thoſe things which the heavenly Father hath been pleaſed to place under their dominion and direction.

As according to that order of nature men ſucceſſively ſee the light of the world, ſo the laws of nature reſulting from that wiſe eſtabliſhment of the ſovereign Lord of the univerſe, do not permit a ſucceeding generation to occupy what is already occupied, to deſtroy the

the labour and work of their predeceſſors, or to interrupt the peaceable uſe and poſſeſſion of thoſe things upon which they have beſtowed their diligence and care; for ſuch a conduct would be palpably wrong and injurious.

Hence it evidently appears, that there is an excluſive right, which reſults from the order and nature of things, by which the firſt occupant may exclude others from oppoſing him in the uſe and poſſeſſion of thoſe things which he has occupied, as long as this uſe and occupancy laſt.

Sch.—The hiſtory of the world informs us, that there has been property in things moveable, when the earth was yet conſidered as a common, and all men equally entitled to its produce. Thus Abraham claimed property in a well, becauſe he had digged it.

But, when objects of occupancy became ſcarce, ſuch tranſient property could not ſecure the peace of mankind: when the wants of the children of men became multiplied, it was found neceſſary to make the ſoil itſelf fixed and permanent property; by means of which one perſon might convey to another the fruits of his labour and induſtry, or a father transfer his right to his children, &c.

Thus, from the natural right which each man has in the fruits of his labour and induſtry, flows his excluſive right in the very ſubſtance improved by his labour and particular care, and hence it ſufficiently appears why he rather ſhould diſpoſe thereof than another.

The right of ſtrict property is therefore hypothetically natural; that is to ſay, depends upon ſome particular act or deed of the firſt occupier; and things thus

thus appropriated to his own uſe are excluſively his own, till ſuch time as he does ſome other act by which he ſhews his intention to abandon it; that is, leaves property in the ſtate in which it was before occupation, or till it counteracts the general good of mankind.

Sch. 1.—There is no doubt but the method of one man's abandoning his property, and another ſeizing the vacant poſſeſſion, if ever it had place, did not long ſubſiſt in fact, not only becauſe a poſſeſſor of property would find it more eligible to exchange his improvements for an equivalent, and, in conſequence thereof, would chuſe to transfer them by grant, ſale and conveyance, rather than to relinquiſh them; but more principally becauſe the powerful motives of that particular affection which is the natural effect of the ties of blood between parents and children forbid a conduct ſo incongruous to that tender relation.

To aſſert that the occupant abandons his property by death, is to allow to that king of terrors rather too much power: it is true, death ſeparates the owner from his poſſeſſions, but cannot ſeparate the effects of tenderneſs and love which a parent feels for his children, or defeat the rights naturally reſulting from the tender ties of that intimate connection. Who ſhould have a greater claim to the fruits of the labour of parents, than thoſe for whoſe advantage they find both the greateſt incitement and pleaſure to undergo any fatigue and arduous undertaking? Death cannot take away the intention of moral agents; and that father who dies without an intention that his children ſhould be veſted with rights in his things, does not die as a father, or his children have forfeited that amiable name by enormous acts of diſobedience and ingratitude.

The objection, that if *a father, or any perſon, had a right to diſpoſe of his acquiſitions one moment beyond his life, he alſo would have a right to direct their diſpoſal for a million of ages after him*, and the *abſurdity* and *inconſiſtency* dreaded from ſuch a right, appear to us to have more ſpecioufneſs than force; for there is a great rationality in that diſpoſition. As it is the prerogative of our nature to have a proſpect into

into futurity, ſo moſt of our deareſt intereſts lie that way. Suppoſe a man had engaged, by pact, to conſent to a transfer at a certain fixed term, ſay ſix, twelve, &c. months to come; ſuppoſe death to have terminated that man's exiſtence, does the right of the other thereby ceaſe? can death diſſolve the eternal laws of juſtice? If a perſon makes a wiſe and rational diſpoſition for the benefit of his neareſt and deareſt friends, he follows the dictates of natural laws, and does what every man feels an inclination to do; he provides for thoſe whom he by nature is bound to love before all other perſons; he does not ſtand upon a level with the indiſcreet and fooliſh man who builds diſpoſitions in the air, makes and does not make diſpoſition; for ſuch would be diſpoſitions, if they ſhould compaſs even a term far leſs than a million of ages. Diſpoſitions, it ſhould be thought, muſt have a ſpecific object; and can a perſon know whether at ſuch a diſtance of time any of his poſterity will exiſt? So much is certain, that by the diſpoſition of a deceaſed no perſon is injured, if that diſpoſition was lawfully made in his life-time; if otherwiſe, it ceaſed before death cloſed the career of the diſpoſer.

Nay, is it not generally the caſe, as parents provide for their children, that theſe again provide for them in the days of their infirmity? Do not children beſtow their labour and care upon things in which their parents have their rights, and thus mingle that which is naturally their own with the property of their parents? Can it be, that they ſhould have no other natural right than that of being the firſt occupants? At this rate, death would not only rob the dead, but the living alſo of their natural right.

Sch. 2.—The aſſertion, that *all property muſt ceaſe upon the death of a perſon*, cannot hold good with reſpect to diſpoſitions which are made in his life-time, for this very reaſon, that men cannot be conſidered *as abſolute individuals*, but are fellow citizens of the world, naturally dependent upon one another for mutual duties and happineſs, though, in the ſtrict ſenſe of the term, *unconnected with civil ſociety*.

We need not curtail men of their deareſt natural rights in order to ſhew the unnatural tendency of entailments and feudal tenures; for the injuſtice of ſuch inſtitutions is ſufficiently

ſufficiently manifeſt from this particular, that they are repugnant to the general rights of mankind.

Thoſe civil inſtitutions, therefore, come neareſt to the duties of natural law, which order the property of parents to devolve upon their children in equal proportions, becauſe they are equally entitled to parental care and affection; they alſo very wiſely leave room for expreſs diſpoſitions, which proprietors may make in their life-time concerning the uſe which ſhall be made of their property after their deceaſe.

Sch. 3.—Whilſt we allow that civil inſtitutions and municipal laws have reduced the rights in things to general, fixed and permanent rules, for the wiſe purpoſes of preſerving the peace of ſociety, an object highly neceſſary and deſirable; we maintain, that ſuch rules ought not to be arbitrary, but ſhould be the reſult of a juſt and wiſe modification of the natural rights of men, as theſe conſtitute the only true baſis of the very right to preſcribe and enforce ſuch rules; for here is the enquiry, not what the municipal laws have introduced, but whether the determinations thereof are founded in nature.

Sch. 4.—We need only to attend to the uſe of the inſtitution of property, as laid down by a certain author on morality, in order to be convinced that even the natural law, which commands both the individual and the public happineſs of mankind, furniſhes a foundation for all the wiſe and beneficial regulations which civil laws have adopted for the conduct of ſociety. According to him

1. Property increaſes the produce of the earth.
2. It preſerves the produce of the earth to maturity.
3. It prevents conteſts.
4. It improves the conveniency of living, and encourages induſtry, the arts, agriculture and commerce; it meliorates the condition of mankind in general.

Vide Paley's Mor. Phil. Book iii. *Part* 1. *ch.* 2.

Things in general may be diſtinguiſhed either into property or commonry, or things which belong to no perſon. In the two former kinds, certain perſons have an excluſive right of diſpoſal; but ſuch a right

finds no place with reſpect to the laſt, unleſs ſome act or deed take place, from which an excluſive right may reſult; that is to ſay, from which may be underſtood why the agent ſhould have a right to diſpoſe of ſuch a thing rather than another.

In order, therefore, to prove that we have acquired a right in any thing, we muſt in the firſt place make it appear, that we have performed a certain lawful action towards appropriating it to our own uſe, and, ſecondly, ſhew, that the action thus performed contains a ſufficient cauſe why we ſhould have it for our own, excluſive of others.

Actions thus performed are ſtiled *modes of acquiſition*; and if ſuch an action contains a ſufficient cauſe of an appropriation thereby made, it is ſaid to reſt upon a *good title*.

Hence it follows, that without a lawful mode of acquiſition and a juſt title, no right in things can be lawfully acquired.

Sch. 1.—A robber forcibly againſt my will and with my knowledge appropriates my money; but he has no right of property or of uſe in it, becauſe the mode of acquiſition is unlawful—his title is unjuſt.

Sch. 2.—I buy an eſtate, which is encumbered by a mortgage or a judgment, give my money for it, have regular conveyances made; the mode of acquiſition is lawful, but the title is unjuſt, for my purchaſe and payment contain not a ſufficient cauſe why I ſhould rather diſpoſe of the eſtate than thoſe who had an intereſt in it before my purchaſe.

Sch. 3.—The proof of our right in things reſts upon ſyllogiſtic argumentation; as,

He who has performed ſuch an action has acquired a right in ſuch a particular thing.

The perſon N. N. has performed that action;

Therefore N. N. has a right in that thing.

The

The firſt and only originary mode of acquiring rights in things is by way of *occupancy*, by which we underſtand the ſeizing a thing belonging to no body, with an intention to appropriate it for our own uſe. Three things, therefore, are requiſite for conſtituting a title by occupancy: Firſt, that the thing which is the object thereof belong to no body; ſecondly, that the occupier have the intention of appropriating it to his own uſe; thirdly, that in conſequence of ſuch intention he actually takes it into poſſeſſion.

If one occupies a thing belonging to no perſon, he thereby commits no injury; the action is conſequently lawful: and as it is conceivable from that very action why the occupier ſhould diſpoſe of the object of his occupancy rather than others, who either were ignorant of or unconcerned about it, the occupier has a juſt title for his appropriation.

Occupancy, therefore, is at once a juſt mode of acquiſition, and a juſt title.

Sch.—Since God, by creation and preſervation, is the Sovereign Lord of the whole Univerſe, it is evident, that the originary right of occupancy has only reference to our fellow-creatures; but if reſpect be had to God, he has the originary right, and occupancy, by certain acts of men, is of a derivative nature.

Things are ſaid to be *relinquiſhed*, when the occupier gives up his intention of having property therein, and, in conſequence thereof, quits the poſſeſſion; property, thus relinquiſhed, returns to the original ſtock of things belonging to no body, and of conſequence becomes the property of the firſt occupant.

But it is not ſo in things which *lie waſte*, that is, ſuch as are not preſerved or kept as things of that nature

nature require; for here is a defect with reſpect to poſſeſſion, but the owner has not given up his intention. Things lying waſte continue, therefore, to be property, and may not be occupied.

Sch.—A plough in the field, a waggon in a wood, where the owner is accuſtomed to fetch his fuel, a bee-hive in a yard, &c. do not lie waſte; for things of that nature muſt be kept in ſuch a manner: but the owner's coat lies waſte when it is in the field, his axe when that lies in the woods, the bee-hive when it is placed in the midſt of a high-way, &c.

Neither can occupancy take place in things found which were *loſt*; that is, whereof the owner has accidentally and againſt his will ceaſed to preſerve his poſſeſſion, for he retains the intention. Things found muſt, therefore, be reſtored to the owner if he can be known: conſequently, no finder has a right to uſe any thing that is found, except it be of ſuch a nature as to become worſe by not uſing, or as the owner would ſuffer detriment thereby; for inſtance, proviſion liable to ſpoil, a horſe that ſhould have ſtrayed, and the keeping of which would incur the owner a high expence: even in caſes like theſe the finder is held to make reaſonable compenſation for his uſe.

Sch. 1.—Things, of which no owner is or can be found, are deemed to belong to no perſon; the finder conſequently becomes the occupant until the owner prove and reclaim property.

Sch. 2.—It is therefore neceſſary that a finder of property endeavour to inveſtigate its owner, by giving ſufficient public notice that ſuch property is in his poſſeſſion.

Sch. 3.—In ſome caſes it is very difficult for the lawful owner to diſtinguiſh his property; as, coins of the ſame value and impreſſion. Here the time when and the place where things are loſt, with other concomitant circumſtances, may ſerve to aſcertain the owner.

Sch.

Sch. 4.—If things found and kept in uſe by the finder ſhould have an increaſe whilſt they are in his poſſeſſion, a queſtion ariſes, whether the owner or the finder has a right to that increaſe; for inſtance, a colt or a calf of a ſtrayed mare or cow.

The deciſion of this queſtion depends upon the care and trouble which the finder has had in the raiſing of that increaſe, as well as upon an enquiry whether he has done what he ought to have done in order to diſcover the owner.

Things admit of an increaſe: an increaſe attending our property is called an *acceſſion:* as acceſſion may reſult from the nature of our property, or from our induſtry, or from both alike, it may be diſtinguiſhed into *natural*, into that which is *acquired by our induſtry*, or into that which partakes of both, and may be called *mixt*.

Sch. 1.—To natural acceſſion may be referred the increaſe of cattle, of land gradually produced by the overflowing of a river, a ſea or a bay, conſtituting the limits thereof.

Sch. 2.—The ſecond kind of acceſſion comprehends improvements of land, clearing, fencing, manuring, building, hunting, fiſhing, &c.

Sch. 3.—Under the head of mixt acceſſion may be brought planting, ſowing, engrafting, &c.

When an acceſſion to property is the natural effect thereof, it is evident that the owner of the property is entitled to the acceſſion; as, for inſtance, the young of animals, &c.

If, by an event in nature, another's property accedes to our's, ſo that the former can be diſtinguiſhed and preciſely known, the acceſſion, or as much thereof as may be thus diſtinguiſhed, remains the property of the firſt proprietor; as, when a river has ſuddenly formed a new channel.

But

But if the acceſſion be gradual, a bank of our property enlarged, or an iſland formed ſo that the particles cannot be known, and conſequently not claimed as the property of others; ſuch enlargement or iſland muſt be conſidered as belonging to no perſon; and the owner of the bank to which the acceſſion is made, or contiguous to which the iſland is formed, is deemed to have the beſt title to the acceſſion, becauſe he has the beſt opportunity for occupancy.

Sch.—Things of this nature are under particular regulations, provided for by civil and national laws, as they now-a-days chiefly intereſt the claims of territory and the juriſdiction of ſtates and nations.

With reſpect to acceſſion by induſtry, we diſtinguiſh theſe two caſes: the one, where the thing acceded to is the property another; the ſecond, where no other has a right in the acceſſion. In the firſt of theſe caſes there cannot be any room for making an acquiſition of the acceſſion, becauſe there is no room for occupancy: in the laſt, the perſon producing the increaſe is by that very act the occupant and the owner thereof.

But an acceſſion may take place by our induſtry on another's property. Here we muſt diſtinguiſh two caſes, for that acceſſion may either exiſt by itſelf, within or upon ſaid property, or is intermixed therewith. In the firſt of theſe caſes acceſſion is ſaid to be by *adjunction*; in the latter it is either *ſpecification* or *commixion*, as we give another's property a new form or ſhape, or unite and intermix with it things of a diſtinct quality.

Sch. 1.—Acceſſion by adjunction comprehends buildings and all other improvements which may be taken away without injuring the ſoil or property.

Sch.

Sch. 2.—That by ſpecification has reference to orchards, ingrafting, walling up banks, &c. Here improvements cannot be taken away without injuring the property.

Sch. 3.—Commixion may be inſtanced in manuring, &c. where the improvements are ſo intermixed that they cannot be taken away without injuring the property.

As by the natural laws the improver is entitled to the acceſſion produced by adjunction, ſo the proprietor of the ſoil, according to thoſe laws, becomes the owner of it by ſpecification and commixion.

Sch.—Prudence dictates on the one hand, that the improver provide for indemnification before he beſtows his induſtry upon another's property; juſtice requires on the other, that, if ſuch improvements have been made, the proprietor make a reaſonable ſatisfaction.

CHAPTER III.

Of thoſe derivative modes of acquiſition which may take effect during the life of the owner.

ALL rights in things which are held in property or commonry, muſt be derived from particular acts on the part of the owners, from which it may appear why another ſhould now diſpoſe of them rather than they themſelves.

Since there cannot be another mode naturally lawful by which we may diſpoſe of what is another's than by his will and conſent, or where the law of reparation entitles us to ſo much of our neighbour's poſſeſſions as is ſufficient to make good damages ſuſtained, or where the withholding of ſuch things would create a damage, and of conſequence give us that right,

right; it follows, that there are different kinds of derivative modes of acquiring rights in the property of others.

The mode of *acquiſition by will and conſent* of the owner, is by pacts of one kind or another.

With reſpect to the mode of acquiſition by the law of reparation, we diſtinguiſh damage which has actually taken place from that which would take place in caſe of refuſal: the former of theſe modes we call the mode of acquiſition by *forfeiture*; the latter, that by *law*.

When pacts are *conſummated*, that is to ſay, when in unilateral pacts the promiſe is performed on one ſide, and when in the bilateral both parties have fulfilled their engagements, then, as has been ſhewn in its place, actual transfer is made by the promiſer to the promiſee. The different pacts, therefore, by which a transfer may be made of our own, are as many modes of derivative acquiſitions whereby another may obtain a lawful right in our property.

But there are two general kinds of pacts; the unilateral, where the promiſer acts without expectation of receiving any thing in return, and the bilateral, where each party is held to perform. As the former comprehends all the ſpecies of *gratuitous* pacts, ſo the latter implies all thoſe which are reciprocal or *onerous*.

To the gratuitous modes of acquiſition are reckoned gifts, grants, laſt will and teſtament. Between the two former there is this difference, that gift is a gratuitous pact without even the mention of any expectation or conſideration being made in return; but grant is a gift without the outward appearance thereof, as

as a conſideration is expreſſed, which, however, is not taken or demanded; for inſtance, a pepper-corn, five ſhillings, &c.

Sch. 1.—Of wills and teſtaments, and other gratuitous devices of a deceaſed perſon, we ſhall treat in a particular chapter.

Sch. 2.—Reciprocal or onerous pacts are more generally known under the appellation of contracts.

Sch. 3.—Gifts and grants, which latter have the outward form of contracts, are naturally as binding as any contract may be; but civil laws, for the purpoſe of preventing frauds, by which others, creditors for inſtance, may be injured, do not allow to them that obligatory power in the civil forum which contracts have, that is, where a conſideration is given.

Sch. 4.—Among thoſe conſiderations which are eſteemed as valuable, the municipal laws admit that of blood or natural affection between near relations, provided no perſon is thereby injured.

Contracts, that is to ſay, reciprocal pacts, become as many modes of acquiſition as there may be transfers of rights in things made in the different forms of onerous pacts, of which we have treated under the head of pacts.

Thus the form *do ut des* comprehends all contracts where money is given for money, property for property, goods for goods; as, money loaned upon bond or promiſe of payment, barter or exchange either of money, property or goods, and all ſales of goods for a price expreſsly ſtipulated or implied, where the buyer tacitly conſents to give as much as they are worth.

The form *facio ut des* has reference to contracts where work is performed for a certain price, either ſpecifically mentioned or left to the determination of the law; as, a ſervant hiring himſelf to a maſter for

certain wages, or a labourer or tradeſman engaging to work for the current wages, or for a compenſation for a piece of workmanſhip, &c.

The form *do ut facias* has reſpect to contracts where the maſter hires his ſervant, the landlord employs a labourer, or engages a piece of workmanſhip with a mechanic, &c.

The form *facio ut facias* extends to contracts where I engage with a man to do his work if he will do mine; or where two perſons agree to enter the matrimonial ſtate, or to perform certain acts on both ſides; or it may be that one forbear on one ſide if ſomething is done on the other in conſideration of that forbearance; as, a landlord giving up his rent upon condition that the tenant incloſe a field with a good fence; or it may be for mutual forbearance on both ſides; as, one merchant engages not to trade to Liſbon if the other will not trade to Marſeilles. *Vide Black. Comment. Book* ii. *chap.* 30.

Sch. 1.—Beſides theſe modes of acquiring property, there are others ariſing from the ſame principles, which have reference to a transfer of the rights of uſe and uſufruct; as, giving in truſt, hiring, lending, borrowing, &c.

Sch. 2.—Authors who have treated theſe ſubjects in detail diſtinguiſh contracts into thoſe of *ſale*, of *hazard*, and of *lending* either inconſumable property or money, and of *labour* by ſervice, commiſſions, partnerſhip, or offices.

Sch. 3.—Indeed, all manner of truſts, ſecurities, pledges, pawns, mortgages, bonds, promiſſory notes, and the different kinds of indentures, reſt upon the principles of pact, and import pactitious rights and obligations.

As we do not intend to treat of theſe ſubjects in detail, it may ſuffice to obſerve, that the determination of what is right or wrong in the transfer of property, or

or of uſe and uſufruct, in the natural forum, reſts upon the eſſential requiſites of pacts, which have been explained in a preceding chapter.

It therefore deſerves our particular attention, whether a pretended contract is founded in a lawful promiſe, conſent, acceptance and transfer, or whether each of them is accompliſhed in its proper meaning and intention, without any ambiguity or prevarication: for a contract defective with reſpect to one or the other of thoſe requiſites is void; and the contracting parties of a juſt contract act perfidiouſly towards each other if they do not fulfil every ſtipulation in its true ſenſe and meaning.

Sch.—The municipal laws of different countries have introduced into this ſubject different and various modifications, which have reſpect both to the publicity and the neceſſary evidence which muſt attend the various tranſactions of a pactitious nature, in order to give them legal validity, and to obviate fraud, litigation and confuſion: for inſtance; a bond muſt be ſigned, ſealed and delivered in the preſence of two witneſſes, a laſt will and teſtament in the preſence of three, &c.

A right to compel an owner to transfer ſo much of his right in things as is neceſſary to repair a damage done by him, is called *the right of forfeiture.*

The right of forfeiture, if conducted according to the dictates of natural law, is conſequently a juſt mode of acquiſition, and extends to the right of making ſeizures.

The right of forfeiture by ſeizure, where it is exerciſed by public authority for the benefit of a citizen who has ſuſtained ſuch damage, is called *execution*, which is always to be preceded by a judgment. But when civil government has ſuſtained a damage, and ſeizes

ſeizes for the uſe of the public, then the right of forfeiture is ſtiled that of *confiſcation*.

There is another mode of acquiſition *derived from law*, by which we may claim as much right in another's property or perſon, as is ſufficient to compenſate for the expence or trouble to which we have been put by his neceſſary ſupport, or by other exigencies in his behalf. This mode is diſtinguiſhed from that of forfeiture in this particular, that the latter preſuppoſes injury and damages actually committed, whereas the former leads to ſomething which is to be done, to wit, compenſation to be made, leſt an injury and damage might enſue.

The mode by which we may lawfully demand, retain or ſeize ſo much of our neighbour's property, or, in default thereof, of his perſonal ſervices, is called *acquiſition by law*, as this ſupplies us with forcible remedies in caſes where juſt compenſation is refuſed; for inſtance, where children are brought up by their parents, where minors depend for ſupport and education upon proviſion made by their guardians, or where poor and fatherleſs children are taken into families. Parents are by law entitled to the ſervices of their children, independent of the duty of gratitude, which ſhould moſt principally prompt them to all manner of reſpect and obedience: guardians have a claim upon the property, and, in default thereof, upon the ſervices of their wards: thoſe who have beſtowed their ſubſtance to bring up the indigent and fatherleſs, have the claim of natural parents.

Civil laws mention a mode of acquiſition, which reſts ſolely on what is called immemorial poſſeſſion, that is, a ſpecified number of years: theſe years laws take for a time immemorial, becauſe it is deemed impracticable

ticable to prove a right in things, after ſuch a number of years, with that preciſion which laws, and indeed the peace of ſociety, require. This mode is called the *right of preſcription*, and is variouſly determined in reference to the different objects which may thereby be claimed; but in the forum of nature it might be conſidered as the finder's right, in things found of which the owner does not appear, or cannot prove his right, rather than a diſtinct natural mode of acquiſition.

CHAPTER IV.

The derivative modes of acquiſition of rights in things by will and teſtament, and by adminiſtration, or inheritance ab inteſtato.

AMONG the natural rights of making diſpoſition of the ſubſtance and emoluments of things, we have taken notice of the right of alienation, which veſts the right of property, of poſſeſſion and other uſes, in perſons after the owner's deceaſe.

Such a diſpoſition, made by the owner in his lifetime, muſt be conſidered as an unilateral and beneficent pact, where conſent and acceptance are conſtructive, and where death ſtamps the unalterable conſent of the promiſer upon that preſuppoſed acceptance of the promiſee, and thus gives the pact its full validity.

He who makes ſuch a diſpoſition of his property is called a *teſtator*; the property itſelf is ſtiled an *inheritance*; the perſon who is deſignated as the new owner thereof has obtained the appellation of an *heir:* the whole

whole tranſaction taken together is called a teſtator's *laſt will and teſtament*.

Sch.—Thoſe who treat on this ſubject in detail make a difference between will and teſtament, confining the former to the diſpoſition of perſonal, and reſtricting the latter to that of real eſtate.

Since will and teſtament muſt be conſidered as an unilateral and purely beneficent pact, where conſent and acceptance, though ſuppoſed, cannot take place before the teſtator's deceaſe, it is evident, that wills and teſtaments may be altered or revoked as long as the teſtator lives, but obtain their conſummation, and conſequently become irrevocable at the moment of his death.

It being the nature of love, that we wiſh to render thoſe for whom we have a particular affection as happy as poſſible, it follows, that a teſtator, deſigning the inheritance to a particular perſon or perſons, declares thereby that he loves ſuch a perſon or perſons in a particular manner above others.

It is therefore as equitable as it is congruous to the nature of things, that the laws of the land direct the inheritance of one who dies inteſtate, to fall to ſuch perſon or perſons whom he ought to have loved before others.

Thoſe who, by this conſtruction of natural and thoſe civil laws which take nature for their guide, become veſted with the inheritance, are *heirs ab inteſtato*, *heirs at law*. The diſpoſition, as it proceeds from law, is called *legitimate*, whilſt that which depends upon the will of the teſtator is ſtiled *teſtamentary*.

Since an heir ſucceeds to the rights of the former owner, it follows, that he comes under his obligations, as far as he is heir; an heir muſt, therefore, fulfil the engagements

engagements of the deceaſed, as far as he is enabled by the inheritance, and not farther.

Succeſſion, *ab inteſtato*, conformably to the law of nature, is to be conſidered in this manner: *if no declaration of the laſt will of the deceaſed can be produced, or, which amounts to the ſame, is not authenticated, he or they will be entitled to the inheritance whom the deceaſed was bound by nature to love particularly above others:* for it is a well eſtabliſhed maxim in morality, that what is natural muſt be preſumed until the contrary is proved.

From theſe and other principles it is therefore evident, that wife and children, and after them the neareſt relations, and among theſe firſt the lineal, and then the collateral, and in default of each of them the country of the deceaſed, or rather the place wherein the inheritance lies, have a legitimate claim to the inheritance.

Sch.—The laws of our ſtate follow theſe principles with great exactneſs, and allow the widow in ſome caſes the third part, in others the half of an inheritance: the former takes place where children are left by the deceaſed; after the portion allowed to the widow, the children are to divide the remainder in equal ſhares.

A laſt will and teſtament is then neceſſary, if a perſon intends another diviſion of his property than that which the law directs, or wiſhes others to be his heirs than thoſe which are heirs at law.

No laſt will is therefore entitled to any notice, which is not ſolemnly declared as ſuch by the teſtator, and ſufficiently proved by witneſſes; becauſe, nothing that is vague or uncertain can have force to ſet aſide directions expreſsly preſcribed by law.

Sch.

Sch.—This, perhaps, has been the cauſe why the Juſtinian law requires, that, beſides the ſeven witneſſes neceſſary for the proof of a will, the teſtator ſhould expreſſly mention the heirs at law, and leave to each a certain proportion, as what is called their *legitimate*, with this proviſo, that without a ſtrict attention to the latter, the will ſhall not be valid.

By the ſolemnities of a laſt will and teſtament, beſides thoſe things which ſerve expreſsly to declare the teſtator's intention with reſpect to the diſpoſition of his property after his deceaſe, are underſtood ſuch external acts as are ſufficient to prove that ſuch a declaration was really made.

Thoſe ſolemnities which declare the teſtator's intention, we call *internal*; but ſuch as ſerve as proofs of the declaration thereof, are *external*.

A laſt will and teſtament, if it be conſiſtent with itſelf, that is, not contradictory or unintelligible, has the internal ſolemnities requiſite for an act of ſo great importance: the teſtator, when he declared his will, muſt have been of ſound mind and memory, and the diſpoſition free and of his own accord.

There are alſo external ſolemnities requiſite, to wit, a ſufficient teſtimony of witneſſes, who can prove, in a ſatisfactory manner, that the teſtator was in a ſtate of ability to make a valid diſpoſition, and that the diſpoſition made or proferred has been declared by him to be his laſt will and teſtament.

Sch.—Thoſe who think that, in the internal forum, the handwriting of a teſtator would be a ſufficient proof of his laſt will and teſtament, do not conſider, that from a perſon's hand it cannot be proved that he acted freely and of his own accord, that fear or force had no interference, &c.

The municipal laws of different countries have variouſly determined, both with reſpect to heirs at law, and

and to the number of witneſſes neceſſary to give a laſt will and teſtament ſufficient authenticity.

Our laws require *at leaſt three* witneſſes preſent when the teſtator acknowledges the ſeal affixed to the inſtrument containing his will, and ſigns his name thereunto, with the explicit declaration, that the contents of the inſtrument thus ſigned and ſealed are his laſt will and teſtament: they alſo order, that the witneſſes ſign their names as witneſſes preſent when theſe tranſactions have been performed by the teſtator.

Sch. 1.—The witneſſes muſt all be preſent at the ſame time; each muſt ſee not only the teſtator, but alſo the other witneſſes ſign their names or affix their marks.

Sch. 2.—If failure be made in any of theſe ſolemnities, the will is ſet aſide, and the laws of the land order adminiſtration to take place.

Nuncupative wills, that is, ſuch as are declared by word and mouth, are not admitted by law, except in very extraordinary caſes; for inſtance, when perſons are at ſea, ſoldiers in the army, &c.

If a perſon who would have been heir at law is by will excluded from a portion of the inheritance, he is ſaid to be *diſinherited.*

A perſon conſtituted heir may remit his right before he enters upon the exerciſe thereof; but having once aſſumed that right, he is, as far as the inheritance extends, under all the obligations of the deceaſed: he muſt, for inſtance, pay all lawful debts, becauſe nothing can be conſidered as the inheritance but what remains over and above all juſt demands.

PART II.

Sect. III. *Comprehending general œconomy.*

CHAPTER I.

Of rights in perſons.

SINCE, as has already been ſhewn, duties, obligations and rights are of a correlate nature, ſo that the latter depend upon the former as effects upon their cauſes, it evidently follows, that we cannot lawfully have or claim any rights in perſons which are inconſiſtent with our duties towards God, towards ourſelves and fellow creatures: for any action whatever that is contradictory to either of theſe duties, is repugnant to our natural obligation, contrary to the dictates of natural law, and conſequently wrong, impious, unnatural and unjuſt.

The following maxims, which may be conſidered as the infallible criteria of right or wrong in the ſocial intercourſe of mankind, of whatever deſcription or extent it may be, flow from theſe undeniable principles:—

1. No perſon can have a ſtrict right of property in another; for no man can ceaſe to be a moral agent, but, as ſuch, is under the dominion of God, and reſponſible to him for all his actions: being eſſentially different from brutes and things inanimate, he cannot, conſiſtently

conſiſtently with his nature, become an object of property.

Sch.—It is unnatural and impious to deal in human fleſh, to treat man as a beaſt of burden, or to hold him in equal or in lower eſtimation than things of an inanimate nature; for it is inconſiſtent with the duties we owe to God, to ourſelves and to others.

2. Rights in perſons can only amount to the right of directing their actions; for ſuch a right only is conſiſtent with the nature of a moral agent, and with that natural relation by which mankind are dependent upon each other for mutual happineſs.

Sch.—A right in perſons extended farther than to the direction of the actions of others conſiſtent with the nature of a moral agent, would amount to a ſtrict right of property—a right which has juſt been proved to be as unnatural and inhuman on the part of the claimant, as it would be degrading and diſgraceful to the ſubject of ſuch unnatural claim; with this difference, that, like the wolf and the lamb, the latter moves our ſympathy, whilſt the lawleſs uſurper excites our diſguſt and indignation.

3. No perſon has an unlimited perfect right in another, ſo that he may arbitrarily direct his actions as he pleaſes; becauſe, he who ſubmits to ſuch a right ceaſes to conduct himſelf conſiſtently with the dignity of a being endowed with a moral nature; and the claimant deprives him of his unalienable natural right, with which he is veſted as a member of the univerſal ſociety of mankind.

4. No perſon may lawfully claim even a limited perfect right in others, except for lawful purpoſes; for a contrary conduct would be repugnant to the duties we owe to God, to ourſelves and to others, and would conſequently be impious, unnatural and unjuſt.

5. No

5. No perſon may lawfully have an abſolute natural right, however limited, and however good the purpoſes may be; for what is abſolutely natural, flows from nature conſidered in itſelf; and men, conſidered in themſelves, have the ſame nature, and conſequently can poſſeſs no perfect rights in one another, but ſuch rights only and ſuch claims as are in every reſpect equal.

6. Rights in perſons muſt conſequently be hypothetically natural, adventitious; that is to ſay, ſome acts are neceſſary, by which it may appear why perſons of the ſame nature, members of the ſociety of mankind, ſhould have perfect rights in one another, and why ſome ſhould have the right to direct the actions of others, whilſt the latter are under perfect obligations to follow and obey thoſe directions.

7. Rights in perſons, therefore, which are *perfect* and *affirmative*, that is, by which we require, and in caſe of refuſal compel, others to follow our directions, muſt reſult from a juſt mode of acquiſition, and reſt upon a juſt title.

Sch.—By nature, and without any previous act either on our part or on that of another, we have *negative perfect rights* in all perſons; for from our nature and from the nature of things it follows, that others ſhould do us no injury or damage.

There is no originary mode of acquiſition by occupancy; for, as man is not only endowed with moral agency, but is likewiſe a fellow member of the univerſal ſociety of mankind, a fellow ſubject of the government of the Moſt High, he is under the dominion of God, and cannot be conſidered as a thing, much leſs a thing belonging to no perſon: he is naturally veſted with a right in himſelf.

Since,

Since, then, all derivative modes of acquiring rights reſult from certain acts, we may diſtinguiſh three general modes by which rights in perſons may be acquired, to wit, either by acts on the part of the claimant, or on that of the obligee, or both alike. In the firſt caſe, we acquire rights in others by the *title of law*; in the ſecond, by that of *forfeiture*; in the laſt, by the *title of pact*.

Rights acquired in perſons by the title of law, take place with parents in their children, with guardians in their wards, and indeed with any perſon who undertakes and is faithful in the performance of parental duties; for here the eſtabliſhed order of nature, or rather the law and will of God direct, that perſons beſtow much care and labour upon others, whoſe very exiſtence and happineſs are made immediately dependent upon their faithful exertions. But the laws which impoſe duties grant likewiſe a right to all things neceſſary for the performance of thoſe duties. The conſequence is, that parents, and thoſe who are under parental obligations, muſt not only have rights in children, but ſuch rights muſt alſo be perfectly conſiſtent with their duties to God, to themſelves and to others. Parents have conſequently perfect rights, not only to direct the actions of children in a manner which will comport with the glory of God and their own happineſs, but likewiſe to require them to make compenſation for the care, trouble and expence beſtowed upon them.

Sch. 1.—Perfect rights, founded in juſtice, may be well exerciſed by parents; for it is perfectly conſiſtent with the nature of children, that they ſhould make, for benefits received in the days of helpleſs infancy, all poſſible compenſation of their own accord, leſt they heighten the injury

jury they commit in refuſing obedience, by the moſt unnatural vice, that of ingratitude.

Sch. 2.—Neither is it incompatible with the ſtate of infancy, that parents exerciſe perfect rights in directing their actions: theſe rights, however, undergo natural modifications, keeping pace with the improvement of their moral faculties.

Sch. 3.—A non-ſubmiſſion to the rights of parents, guardians, &c. by the title of law, renders the recuſant liable to the right of forfeiture.

By the right in perſons, in virtue of the title of forfeiture, acts which have cauſed injury and damage on the part of the obligee are preſuppoſed. In defect of property by which reparation may be made, the injurer is held to make it by his labour.

Sch.—Such a right is both compatible with the principles of natural juſtice and with the nature of a moral agent: as the former requires that reparation be made, ſo the latter ſhould feel inclined to make it as far as is in his power.

By the title of pact, acts on both ſides are required; that is to ſay, as one intends to have a right in another, ſo the conſent of each is required for ſuch a claim to become lawful. The ſeveral ſpecies of pacts, therefore, whether explicit, tacit or conſtructive, heretofore explained, are modes of acquiring rights in perſons, with this exception, that nothing can find place which is incompatible with the nature of a moral agent and the natural rights of man.

Having hitherto attended to the perfect affirmative rights in perſons, under the appellation of rights in perſons, it is proper that we ſpeak of thoſe imperfect rights which men, as fellow creatures, as fellow citizens of the government of the Moſt High, have in one another by virtue of their nature, and particularly by this their natural relation. Theſe are not only negative, but

but alſo affirmative, and may be claimed in all perſons whatſoever; for, as by that natural relation men are bound by mutual obligations to promote the general happineſs of mankind, ſo they have likewiſe mutual rights to require all thoſe things which are neceſſary to be done for the attainment of that happineſs. It would be impoſſible, on the one hand, to do our duties, if we had not a right in perſons to expect and to require that they ſhould act conformably to them. How ſhould we be able to perform the duty of hoſpitality to a ſtranger, if we had not the right to recommend him? How ſhould we be able to cultivate true friendſhip, if we had not the right to rebuke, to exhort, or to viſit a friend? How could parents love their children, if they had not rights to adviſe, to reprimand, to chide, or to put them to ſome uſeful employment? We have a right, on the other hand, to expect for our friendly offices ſincerity and gratitude from a friend. Parents have a right to require love, reverence, gratitude, obedience and aſſiſtance from their children.

Since our imperfect rights reſult from imperfect obligations, it is plain, that as theſe are ſtronger, the more intimate our natural relations are; ſo, likewiſe, our rights in perſons become more forcible the nearer the relation is in which we ſtand towards them. Thus parents have the ſtricteſt poſſible right in the perſons of their children; nothing, therefore, can be more impious and horrid than diſobedience and ingratitude in children to their parents.

CHAPTER

CHAPTER II.

Of the general laws of ſociety.

BY *ſociety*, in the ſtrict ſenſe of the term, we underſtand that ſtate in which a perſon has a perfect affirmative right in others: the perſons living in this perfect *ſocial ſtate* are *members*.

Sch.—As there are many ſocieties among the children of men which reſt upon imperfect rights and obligations, and admit only of a directory government, ſo that they are quite of another nature than thoſe which reſult from perfect affirmative rights; it is proper that the reader be appriſed, that what is ſaid in the ſequel with reſpect to ſocial rights and obligations, is only applicable to ſocieties which reſt upon perfect rights and reſult from perfect obligations.

Since there are not only a variety of actions, but alſo many and different ends to which they may be directed; ſince, likewiſe, directions may be inſtituted and conducted by various means, and under different modifications, with reſpect to time, place, the immediate object and individual circumſtances; it follows, that there are a variety of ſocieties poſſible, which either differ in kind, or only in ſome other qualities.

All ſocieties which have for their object the ſame end, are *materially the ſame*, that is, *ſocieties of the ſame kind*; but ſuch as have for their object different ends, are *materially different*, or *ſocieties of different kinds*.

Societies of the ſame kind may differ with reſpect to other qualities; as, for inſtance, the different governments on earth—the various charitable and politi-

cal ſocieties now in vogue—the different profeſſions of religion, &c.

As ſpecies are contained in kinds, ſo one general ſociety may contain many ſpecific, and theſe again various individual ſocieties. There are, therefore, not only many and various ſocial ſtates poſſible among men, but individuals may alſo be members of ſeveral and different ſocieties.

Since perfect affirmative rights muſt neceſſarily ſtand in a natural correlation with perfect affirmative obligations, it follows, that two parties muſt be diſtinguiſhed in a ſociety, to wit, one veſted with a right, the other under a perfect obligation to act conformably to that right.

Since rights in perſons cannot be lawfully claimed without a proper mode of acquiſition and a juſt title, it follows, that all reciprocal claims of a perfect nature which perſons make upon one another, not founded in the right of acquiſition by law, forfeiture or pact, are tyrannical and repugnant to natural law, under whatever ſpecious name ſuch claims may be made.

Aſſociations, likewiſe, which are formed for unlawful ends, deſerve not the name of ſocieties, but that of lawleſs combinations, of banditti, of nuiſances and peſts of ſociety; diſgraceful as they are dangerous and deteſtable.

A ſociety becomes *deſpotical*, if the claimant of the ſocial right extends it to all that the obligee poſſeſſes; but, if the latter has ſomething left to himſelf, independent of the ſocial right on the part of the claimant or any other member, it is *limited*.

Sch.—In limited ſocieties there are reciprocal rights and obligations on both ſides.

A deſpotic

A deſpotic ſociety, whether we conſider it with reſpect to inſtitution or execution, is as inhuman as it is irrational and unnatural; for here the obligee is conſidered not as a moral agent, but as a brute or thing of an inanimate nature.

Sch. 1.—Such ſhameful deſpotiſm is to be met with in the governments of the eaſtern parts of the globe, eſpecially in the treatment of the female ſex. Of that nature was the barbarous right allowed to parents to expoſe or put to death their children. The ſtate wherein perſons are deprived of all their rights, is a ſtate of *ſlavery*.

Sch. 2.—In that abject miſerable ſtate captives in war were held by the Greeks and Romans of old, who looked upon themſelves as excluſively entitled to the honour of civilization and humanity, calling all others barbarians.

Sch. 3.—Though among civilized nations the right over the death and life of ſlaves is taken out of the hands of private perſons, yet ſlavery itſelf, where perſons may be dealt with in all other reſpects as brutes, does not ceaſe to be inhuman, unnatural and diſgraceful to mankind.

Sch. 4.—How far the right of forfeiture may reduce a moral agent, is a queſtion which, to the honour of humanity, has of late been much agitated among the learned of different nations. That men who have, by an abandoned conduct of life, voluntarily debaſed themſelves, ſhould be juſtly conſidered as nuiſances and peſts of ſociety, and confined or put to hard labour until they have expiated their crimes and made reparation, is perfectly conſonant to reaſon and the principles of natural law: but in juſtifying the right of taking away their lives, reaſon is as much at a loſs as philanthropy and humanity, ſince the violent death of ſuch wretches can neither be conſidered as an atonement to the public, nor to thoſe individuals who have become the objects of their lawleſs exceſſes.

Sch. 5.—Capital puniſhments in many inſtances prevent the poſſibility of reparation, and in this reſpect are far from being naturally lawful.

Sch. 6.—If the argument drawn from the force of the victims becoming proper examples for deterring others from wanton tranſgreſſions of the law, be brought into contraſt with

with the experience of ages, it proves, that human immolations at the ſhrine of juſtice ſhould either ceaſe or become leſs frequent.

Sch. 7.—Be it remembered, that government can have no rights but ſuch as are delegated, and that the individuals of a ſociety cannot delegate more than they have: if, therefore, a ſociety is not in a ſtate of abſolute or extreme neceſſity, which can hardly be the caſe in a well regulated government, there is no cauſe for extending the right of ſelf-preſervation to life and limb: nay, ſince even a ſtate of neceſſity, with reſpect to individuals, does not juſtify the taking away of life, if the duty of ſelf-preſervation may be otherwiſe ſatisfied, it appears very plain, that capital puniſhments in many inſtances contradict the principles of natural laws.

Sch. 8.—It is even queſtionable, whether taking away the life of a criminal in the caſe of murder is in itſelf conformable to natural law; or whether it ſhould not rather be ranked among thoſe poſitive laws which derive their force, with reſpect to particular circumſtances, from the law of ſelf-preſervation, upon which all right of life and death ultimately depends. It is upon the ſtrength of this law that we may account for the words, *Whoſoever ſheddeth man's blood, by man ſhall his blood be ſhed*, as well as for other crimes made capital when Iſrael was in the wilderneſs; whilſt the death of Abel, of Uriah, &c. was ſuffered to go unrevenged, no capital puniſhments having been inflicted upon thoſe who were guilty of taking away the lives of theſe innocent perſons. It is on the ſame account that martial laws, in times of invaſion and in the field, may be put into execution with more rigour than would be juſtifiable in any other ſituation of public affairs.

Let us therefore conclude, that murder and other enormous crimes militating againſt the law of ſelf-preſervation, may lawfully be puniſhed with death, when this great duty cannot be ſatisfied by puniſhments leſs rigorous. Let it be remembered, that we cannot have rights inconſiſtent with the duties which we owe to God, to ourſelves and to others, and that caſes of colliſion call for prudent, juſt and equitable exceptions.

In a deſpotical ſociety, the paradoxical maxim can only

only be applied, that a human being *can do no wrong*; for that ſociety leaves no right in the other party: but as limited ſocieties alone are recognized by the infallible principles of nature, it is in them that either or both parties may do wrong. The members of a ſociety may injure one another, either when the claimant of the ſocial right extends it farther than he ought to do, or when the ſocial obligee falls ſhort in the performance of his obligation.

To an attentive obſerver of perſons and things it is obvious, that from the intricacy of human concerns, and from the various affections of the human heart, ariſing from the imperfection and imbecility of our nature, innumerable feuds and animoſities muſt neceſſarily take place amongſt members of ſociety, if the juſt proportion of ſocial right and obligation ſhould reſt upon the aſſertions and arbitrary claims of the parties—claims often as whimſical as they are ſelfiſh and unjuſt.

It is, therefore, for the happineſs of mankind, that in this reſpect we have nature for our guide; that is to ſay, principles reſulting from the nature of juſt ſocieties, as infallible as nature itſelf. The very eſſence of ſociety is the ſcope and end for which it is inſtituted: this end, therefore, is the true criterion of what is right or wrong in the conduct of members.

The end of ſocieties we call the *common good*; becauſe, as no ſociety is naturally lawful which has not a good for its object, ſo it is abſolutely requiſite, that that good be common; that is, the members muſt in ſome manner or other be intereſted in it; for, if the contrary ſhould be the caſe, the ſociety would be deſpotical, unnatural and unlawful.

Whenever

Whenever the claimant of the ſocial right extends his claim farther than is conſiſtent with the common good, he injures the ſocial obligee: when, on the other hand, the latter does not perform all his obligations to ſuch an extent and in ſuch a manner as the common good requires, he injures the former: in either caſe, the end of the ſociety is fruſtrated, and the members reſpectively incur the guilt of perfidy.

Sch.—The poſition, that all lawful ſocieties muſt have a common good for their object, holds good even in caſes where perſons, on account of injuries and damages committed by them, are deprived of their liberty and put to hard labour; becauſe they enjoy as much right as their ſtate of guilt admits of, and have this intereſt in that ſtate of ſervitude and conſtraint, that they make that reparation which the natural laws in ſuch caſes require.

There is ſuch a thing as *ſocial morality* or *immorality*; for, in all manner of ſocieties, that is juſt, right and beneficial which comports with the common good: that, on the other hand, which is repugnant thereto, is unjuſt, wrong and evil.

This leads us to the *univerſal ſocial law* contained in this propoſition; *Direct your actions ſo that the common good of the ſociety be attained, preſerved and promoted*, and *carefully avoid the contrary*.

This law binds both the claimant of the ſocial right and the ſocial obligee: all actions of the members of ſociety among one another, which comport with this law, are juſt, right and good; all, on the other hand, that is contradictory thereto, is unjuſt, wrong and evil.

Since obligations for certain ends imply the performance of all thoſe duties which are neceſſary for the attainment of thoſe ends, it follows, that the members of a ſociety are bound to perform all thoſe ſocial duties which

which are neceſſary for the attainment of the common good thereof. Hence it likewiſe follows, that the claimant of the ſocial right may lawfully extend his claim to all ſuch actions as are abſolutely neceſſary for the attainment and preſervation of the common good of the ſociety.

Sch.—Of the importance of this natural connection between ends and means we have already ſpoken, and ſhewn the neceſſity of a careful diſtinction between neceſſary ends and ſuch as may be otherwiſe. *Vide* page 33.

Thoſe actions, rights and things which members of ſociety enjoy independent of their ſocial character, and which they may conſequently direct to their own advantage, conſtitute what is called their *private good.*

The private good of the members of ſociety may concern their temporal or their eternal felicity: ſince the latter is a good which man, as a rational creature, cannot on any account ſacrifice, ſo no ſociety can lawfully require that ſacrifice under any circumſtances whatever. But temporal private good may come into a colliſion with the common good of the ſociety; and in caſe of ſuch a colliſion, it is a ſocial duty to prefer the common intereſt to our private eaſe and convenience.

Amongſt the many things which require the moſt careful attention, and which muſt be conſidered as the eſſential ingredients of the common good of ſociety, are liberty and internal and external ſecurity: for, without the firſt, members have no intereſt in the common good of the ſociety, at leaſt not as much as they ought to have, and the ſociety becomes more or leſs deſpotical and unjuſt: without internal and external ſecurity, individuals, nay, perhaps the whole ſociety is in a ſtate

of

of fear, which is one of its moſt unhappy ſituations, except that of inteſtine war and invaſion from without.

In ſociety the natural liberty of members muſt be reſtrained; for, without ſuch a reſtraint they may not only injure one another, but alſo others not belonging to their body; and the conſequence would be, that the ſociety could neither be internally nor externally ſecure.

It is therefore a ſocial duty, that no member injure a fellow member or any other perſon, leſt the ſecurity of the ſociety be thereby diſturbed or endangered.

Societies, with reſpect to the acquiſition of rights, may be diſtinguiſhed into *neceſſary* or *voluntary:* the former reſult from the titles of law and of forfeiture; the latter from pact and mutual conſent.

There is another important diſtinction, which has reference to the ſocial obligation; for this may ariſe from the nature of the ſociety, or depend upon the claim of the perſon veſted with the ſocial right. In the former caſe, ſocieties are ſaid to be *equal*; in the latter they are *unequal.*

Unequal ſocieties are unnatural, and are therefore, in the forum of nature, unlawful and deſpotical.

In equal ſocieties, many and great inequalities may take place in many reſpects, becauſe the nature of ſuch ſocieties requires or admits of them. There muſt be members who exerciſe particular rights, whilſt others are under correſponding obligations; for without ſuch a ſubordination the end of ſociety cannot be obtained, or that order and harmony preſerved which are ſo eſſentially neceſſary for the preſervation of the ſociety and the happineſs of its members. As in this reſpect a difference muſt take place, reſulting from the nature of the

the ſociety, ſo members may be differently ſituated with reſpect to their private intereſts: with theſe, as has been explained, the common good does not interfere; but, in caſes of colliſion, requires the united exertions of the members, according to their ſeveral abilities.

The principle of equality, therefore, ſo much the object of controverſy at this day, if well underſtood, is far from that levelling ſyſtem which ſaps the foundation of all order and ſubordination in ſociety, and lays proſtrate all right of lawful pre-eminence and property. There muſt be rulers in ſociety, and there muſt and will be a difference among men, with reſpect to talents, induſtry and poſſeſſions: but let the rulers derive their right from the nature of the ſociety, and let this right be exerciſed for the common good thereof; let the wiſe and the virtuous be preferred to the adminiſtration of the ſociety, as they are both able and willing to ſtudy its advancement and proſperity; let the poor reſt contented under the care and protection of the ſociety, and cheerfully contribute for the ſupport of the common good, whilſt thoſe who are more wealthy aſſiſt in proportion to their poſſeſſions.

A right to diſpoſe of the actions of the members of ſociety, for the attainment of the common good thereof, is called *government:* perſons adminiſtering government are ſaid to be in *authority:* thoſe members of ſociety who are in authority are known by the name of *rulers*, whilſt ſuch as are under that authority are called the *ruled.*

Since the actions of moral agents are to be directed by motives, and as a connection of motives conſtitutes moral obligations, it follows, that rulers have a right

to prescribe to the members of a society such rules as may import their social obligations; that is to say, each government is invested with the natural right of enacting, promulging and putting into execution laws for the conduct of the members of society, and these are bound to conduct themselves conformably to those laws.

Laws which are naturally entitled to the obedience of the ruled, must be consistent with and have for their end the common good of society; for it is for this purpose only that government is vested with legislative rights. If the contrary should take place, obligations would be constituted which result not from the nature of society, but depend upon arbitrary disposal;—the society would become unequal and despotical.

The determination, whether laws are consistent with the common good of the society, cannot rest upon the opinion of the rulers, nor upon that of particular persons amongst the ruled; for in the former case, the social obligation would rest with the claimants of the social right; in the latter the social right would be made dependent upon the social obligee, who might have a private interest to bias his judgment to the prejudice of the rulers as well as of the common good of the whole society. In both these cases obligations would be constituted which do not flow from the nature of the society; and the consequence would be, that the society would cease to be equal and lawful.

The nature of equal and limited societies is, that they have for their end a common good. But a good is common if all or the greater part of the members are interested in it. The determination, therefore, whether laws are for the benefit of the society or of a contrary

trary tendency, reſts with all the members, or, where the conſent of all cannot be obtained, with the majority: for in either of theſe caſes the ſocial duty is preſerved by which members are bound to prefer the common good to their private intereſt.

It is poſſible, and indeed frequently the caſe, that the majority of a ſociety commit errors and miſtakes, by approving and adopting what is detrimental thereto: but as they have their ſhare in the evil conſequences of their errors, ſo they have an opportunity of being ſoon convinced of them, and the remedy to find relief is in their own hands.

Laws of a ſociety have therefore a binding force upon all its members, as long as a majority approve or acquieſce in them.

As long as ſocieties are ruled by men, ſo long there is no ſecurity againſt a poſſibility of being burthened with unneceſſary and grievous laws: the members of a ſociety have therefore a natural right to watch the conduct of their rulers, to ſtate their grievances, and to apply proper remedies for redreſs: the rulers are under natural obligations to grant redreſs as often as their meaſures militate againſt the common good.

Sch.—For further particulars on this ſubject ſee pages 31—34, and 48—50.

Societies become *ſubordinated*, when the common good of one is ſo modified as to become a ſuitable mean for obtaining the common good of another.

Thoſe ſocieties which ariſe from ſuch a ſubordination are *compound*; and theſe again more or leſs *general*, as the ſubordination comprehends a greater or leſs number of individual ſocieties.

Members

Members of a compound ſociety muſt exerciſe their ſocial rights, and perform their ſocial obligations in ſuch a manner and to ſuch an extent as the common good of the more general ſociety requires; for in reſpect of the latter, the ſocial rights and obligations of the members of ſubordinated ſocieties muſt be conſidered as their private good.

As, therefore, in each ſociety private good muſt be diſpenſed with where it is found to be inconſiſtent with the common good, ſo the common good of ſubordinated ſocieties muſt be diſpenſed with, as far as it is found to militate againſt the common good of the general ſociety.

Sch.—The moſt general ſociety is the civil. Civil ſocieties are known by the names of ſtates, nations, &c. In a ſtate all ſocieties and intereſts muſt be ſubordinate to public good; where that is not the caſe, the political paradox takes place, *imperium in imperio*, or *ſtatus in ſtatu*.

The rule that the common good, in caſes of colliſion, muſt be ſacrificed to the more general, or what is commonly called the public weal, cannot extend to the ſpiritual good of ſocieties; that is, their religious ſentiments and modes of worſhip; except where theſe ſhould actually endanger the welfare of ſociety, and members on this account oppoſe the public good, ſo that no other remedy is left. In caſe therefore of neceſſity only, the ſociety has a right to check the effects of ſuch dangerous innovations.

Sch.—If a ſociety holds it unlawful to make uſe of war or violent defence, the general ſociety has a right to check the progreſs of ſuch tenets, that they may not become general, if there be cauſe to fear that effect; but if ſuch perſons may otherwiſe contribute to the general defence, and there be not an abſolute neceſſity for their actual ſervice, it would be imprudent and improper to meddle with their tenets at all.

In

In all other reſpects well regulated ſocieties require not a ſacrifice of the liberty of conſcience; for their primary ſcope is temporal felicity; that is, the higheſt poſſible degree of liberty, joined with both internal and external ſecurity: but for the enjoyment of the firſt, liberty of conſcience is eſſentially neceſſary; and in well regulated communities ſalutary laws provide for the internal peace of ſociety, which is generally very ſafe with reſpect to conſcientious perſons. As for the external ſecurity of ſociety, experience has evinced that the number of thoſe who have adopted tenets unfriendly to its effectual ſupport in times of imminent danger, has been comparatively ſmall at all times, ſo that its ſafety is by no means injured by exerciſing towards them all poſſible moderation.

The *oſtenſible*, or *public character* of a ſociety, conſiſts in the rulers thereof; for as long as a majority acquieſce in their proceedings, the approbation of the ſociety is ſtamped on theſe proceedings, and the conſequence is, that the rulers are held up as perſons who are veſted with the power of maintaining the rights of the ſociety at large. Things, therefore, done or ſuffered by rulers in their ſocial capacity, are deemed to be done or ſuffered by the ſociety at large.

Hence it is that different ſocieties injure one another, if the rulers of the one, either *directly* or *indirectly*, impede the rulers of the other in the purſuit or in the enjoyment of the common good of their own ſociety: the former will be the caſe if the injury ariſes from the proceedings of the rulers; the latter when it is cauſed by acts of the members, with the knowledge, connivance or approbation of the government of their ſociety: for in both theſe caſes the rulers of the one

are

are the moral cauſe of injuries committed againſt the rulers of the other ſociety.

The government of a ſociety may be injured in an *immediate* or in a *mediate* manner; the former if the direct or indirect injury is committed againſt the rulers; the latter if the one or the other has befallen an individual, ſo that he has been impeded in purſuing or enjoying the *common* good of his own ſociety.

From theſe diſtinctions the following maxims may be inferred for determining what is injurious or otherwiſe between ſocieties:

1. Injuries committed by the rulers of one ſociety againſt the government of the other, are *ipſo facto public*; that is to ſay, they concern the whole ſociety.

2. Injuries committed by any member of a ſociety againſt the government of another, become only public on the part of the former, if ſatisfaction is denied when required, the injurer countenanced or protected, or the act approved of, &c.

3. Injuries which members of one ſociety commit againſt the members of another, become public if the injury concerns the public good, and if, repreſentations being made by one government to the other, ſatisfaction is refuſed, and the injury thus countenanced.

4. A member injuring the rulers of the ſociety of which he is a member, commits a public offence againſt the ſociety at large.

Societies are bound by natural laws not to injure others either directly or indirectly, whether in a mediate or in an immediate manner; for by doing an injury, they give cauſe for violent defence and war, and endanger their own ſecurity.

In

In times of common danger, the members of a ſociety are perfectly bound to afford aid and aſſiſtance to one another, and make defence a common cauſe.

Social connections are deſtroyed when ſocial obligations and rights ceaſe: we may diſtinguiſh various ways in which either of theſe will be the caſe.

Death *puts an end* to ſocial connections; mutual conſent *diſſolves* them; they become *extinct* if prohibited by law, or where their end is rendered impoſſible; they *expire* when the time is elapſed which was to determine their duration.

We conclude this chapter by obſerving, that ſocial connections have no pretence to a longer continuance than the cauſe of their inſtitution.

Sch.—Allegiance is a ſocial duty as long as protection is afforded.

CHAPTER III.

Introduction to the relative duties of man, which flow from the conſtitution of the ſexes.

ALL ſocieties of a ſpecific nature, which may take place among men, ultimately reſult from the ſame ſource and origin from which the various aſſociations of all beings of an *animate nature* ariſe, to wit, from the natural conſtitution of the ſexes, and that inſtinctive affection between them, which, accompanied by an inſuperable deſire and love of offſpring, are deſigned by the Moſt High as means to preſerve and continue in exiſtence their reſpective ſpecies.

The

The brute creation ſeem to have accompliſhed the deſign of Providence, when, following inſtinct and ſenſe, by aſſociations, for the moſt part periodical and promiſcuous, they procreate offſpring, beſtowing on them that ſhort-lived care and ſolicitude which the protection and preſervation of their young require.

But, bleſſed be God, there is a vaſt difference with reſpect to human nature; his providences towards the children of men are not only more extenſive than this tranſitory life, but likewiſe infinitely more glorious. Man, beſides the enjoyment of animal life, and the innumerable bleſſings it affords, is bleſſed with a moral, ſpiritual and immortal nature; his deſtination is not confined to time or tranſitory enjoyments, but extends to permanent, laſting, nay, everlaſting happineſs. To be guided by inſtinct, to follow ſenſe, to be ſatisfied with ſenſual gratifications, comports with the nature and is the condition of brutes. To ſubject them to reaſon, to uſe them in conformity to the will of the glorious Creator, and in conſiſtency with the deſign for which they are given; to ſeek real and everlaſting happineſs, by a conduct rational and conformable to the ſupreme law and will of God, is the duty of man—his glory—his prerogative.

The ſlave of paſſion ſins both againſt God and himſelf; thoſe who ſubmit to the incitements of inſtinct only, forget the high deſtination of nature, and are inſenſible of their awful reſponſibility to their God and Maker, for the uſe they make of all the faculties and gifts beſtowed upon them: the leaſt that can be ſaid of ſuch a conduct, is, that it degrades man to the claſſes of brutes, or perhaps ſinks him below their condition.

Sch

Sch.—Here would be the place to ſpeak of diſgraceful connections, and of acts unnatural, which conſtitute crimes without a name; becauſe too diſgraceful to be ſuppoſed to obtain a place among the actions of men.

Should men be ſatisfied, that aſſociations have the ſanction of natural inſtinct? Ought they not, as moral agents, to look forward to the will of their Creator, and conſider the conſequences of their actions? Moſt certainly; ſo far from rendering himſelf a brute, man ought, before all other conſiderations, to enquire, Is it right? is it conſiſtent with the dignity of a moral nature and with the will of God? is it lawful? Thus conducting himſelf he acts becoming the deſtination of a being, bleſſed with an immortal ſpirit, which cannot be ſatisfied by tranſitory gratifications and empty luſts, and ought therefore to ſeek for rational pleaſures, laſting and permanent, calculated to advance that happineſs which is the ultimate deſign of all the providences of the Deity towards men.

Since, then, God has implanted powerful inſtincts in human nature, rendering thoſe aſſociations eligible which he has ordered for the preſervation of mankind, it certainly follows, both from the nature of man and his high deſtination, that he is under the moſt ſacred obligations, neither blindly to follow nor wantonly to ſuppreſs, but rationally to controul the influence of them, by determined reſolutions, taken from the weighty motives of piety, juſtice, humanity and decency, that they become not obſtacles to the purſuit, but means for the attainment and advancement of human happineſs.

Sch.—It is a juſt obſervation, that man differs not ſo much from brutes by reaſon as by religion. What avails it to have the former, and not to exerciſe it, or to reject its ſalutary counſels?

The moſt lively ſenſe of duty ſhould therefore impel man to improve thoſe ſtrong affections implanted in his nature into *habits of true love*, and a *laſting friendſhip*, founded in a ſincere and indefatigable deſire to promote, as much as poſſible, one another's happineſs. Without ſuch a moral union of will and affection, there cannot be ſtability in a common intereſt; happineſs cannot ſubſiſt, and a connection of the ſexes cannot be conſiſtent with the general welfare of mankind or becoming the dignity of human nature; ſince the condition of the parties muſt be precarious and pitiful, and that of their offſpring miſerable, forſaken and deſtitute.

How long do children continue to be extremely tender, helpleſs and weak! and what would be their condition, if thoſe who have been inſtrumental in their exiſtence ſhould withdraw their aſſiſtance for the protection and preſervation of their lives?

How ſtrong, on the other hand, is the affection, how nearly is the happineſs of parents connected with that of their children! How great then the affliction, and how grievous the injury to a fellow parent, if one of the parties ſhould withdraw his affection, and deprive what is his own fleſh and blood of ſo neceſſary an aſſiſtance!

Hence it is evident, that connections which are not founded in true love, where perſons have not formed one common intereſt with the deſign of promoting one another's happineſs, where they continue not in a perpetual ſtate of friendſhip neceſſary for their mutual comfort, as well as for the faithful performance of parental duties to children, who are generally the natural conſequence of ſuch aſſociations, are unbecoming the rationality of human nature, contrary to the

the happineſs of the parties as well as the children, and therefore utterly repugnant to the dictates of natural law, which requires of man that his principal duty ſhould be to promote his own happineſs and that of others, and carefully to avoid the contrary.

Sch.—Beſides the powerful arguments, that God firſt made one man and one woman, and, ſince creation, has ordered things ſo, that the number of males and females ſhould continue as nearly equal as poſſible, the neceſſity of one common intereſt and perpetual friendſhip between perſons connected for their own happineſs and for that of their children, is a ſtrong argument againſt polygamy: the former ſhews the injuſtice thereby committed againſt the general rights of mankind; the latter evinces the ſins which perſons by ſuch conduct commit againſt God, againſt themſelves and their offspring.

It is delightful indeed to contemplate the ways of the wiſdom of God in his government over the human race, for they are wiſely diſtributed and full of mercy. Children receive their exiſtence by powers which, according to the univerſal order of nature, are implanted in the conſtitutional frame of mankind: their ſupport, and more eſpecially their *education*, that is, all that concerns their felicity here and hereafter, is founded on natural affection, and chiefly on thoſe principles of juſtice and equity which the wiſdom of the Moſt High has planned, and which his finger has engraven on the hearts of men for the direction of their conduct and the promotion of their happineſs.—Man is made dependent on his fellow creatures for the firſt dawn of life: the human race is linked together by ties of blood and ties of duties: all men labour under the ſame wants and infirmities, and, in conformity to the will of their common Father, are ſubject to the ſame laws for promoting their happineſs and extending their benevolence

lence to one another, and eſpecially to thoſe who are related to us by blood and more ſtrictly intruſted to our care.

Let thoſe who have unluckily learned the art of contracting a callous inſenſibility to the dictates of reaſon, and who are even dead to the inſtinctive calls of nature, take example from the affectionate care and ſolicitude which brutes never fail to exert towards their young, as long as their condition requires protection and aſſiſtance: here they will ſee the horror of lawleſs, looſe and promiſcuous connections.

But let us draw a veil over human converſation not guided by religion, where a creature endowed with reaſon is deaf to the gentle voice of virtue, and turns an enemy to the delights of innocence and its concomitants, peace of mind and true happineſs, the approbation of God and of men.—Let us behold the beautiful ſight of perſons who have given up all their worldly intereſts for their own mutual happineſs and for that of their offspring, dwelling in unity, each endeavouring to prevent the other in all things which are conſiſtent with virtue and with their common good. United by intereſt, they are not only one body, but one heart and one ſoul. Their affection reſts upon virtuous love, which increaſes with every effort that is made to advance their mutual happineſs. Behold their joint, unceaſing endeavours, not only to protect, but to educate their children! how aſſiduous to fit them for the duties of life! how ſtrenuous and inceſſant to do all in their power to qualify them for the promotion of their own felicity and that of others! It is both their wiſh and delight to cauſe their offspring to become good fathers, good citizens, bleſſed inſtruments

for

for promoting the glory of their Maker and the felicity of mankind. It is ſaid, *Nuptiæ* declare the father; but let it be obſerved, that it is the good education that realizes the declaration. What excellency is there in the name of a father or mother, if parents have been but inſtrumental in bringing children to light, ſince it is well known that the beaſts of the foreſt do the ſame after their kind? Suppoſe ſuch parents give their children the needful ſupport, by doing ſo they can only exceed the dumb creature in the neceſſary length of time. It is altogether inſtinct with both, with this difference, that the effect of that inſtinct is more laſting on the part of man than on that of the brute; becauſe it is God who has ordered it ſo, the natural weakneſs of children requiring that proviſion for their protection and preſervation which even the degeneracy and wickedneſs of the human heart can ſeldom impair.

Sch. 1.—How cruel and unnatural, then, muſt be the conduct of thoſe who can deny children their natural rights, and leave them deſtitute and unprovided for?

Sch. 2.—How deteſtable is fornication and adultery, if, beſides the internal turpitude and a thouſand other crimes conſequent to them, this one is conſidered, that a parent denies his own fleſh and blood, or leaves it to all the miſeries of want, diſgrace and ſhame?

Sch. 3.—We juſtly diſtinguiſh *parental* love from natural tenderneſs and fondneſs, ſince the former is guided by reaſon and directed in conformity to the precepts and prohibitions of natural law, whilſt the latter degenerate into reprehenſible neglect of duty, and cauſe more harm than deſpotic rudeneſs and ſeverity. Love is true, if the happineſs of children is its invariable object and purſuit. Of true parental love it may be juſtly ſaid, that it is *ſtrong as death*, laſting as life. It riſes ſuperior to all the pains, troubles, vexations and ſufferings which the education of children requires from parents.

Parental

Parental duties are indeed exceedingly complicated, arduous and difficult; but, behold the merciful providences of the Moſt High! they are not only made tolerable, but pleaſant, ſweet and delightful! It is a great gratification to parents, that they can render the ſtate of their children happy, aſſiſt their wants, alleviate their miſery, and ſympathiſe in their ſufferings! It is God who has thus placed the hearts of parents in uniſon with the concerns of their children; nay, the power of nature, as well as of religion and humanity, extends that ſympathy to others; ſo that children who are deſtitute of the aſſiſtance of parents, either by death or the omiſſion of parental duties, find relief and comfort, fathers and mothers, in other perſons. God has connected the happineſs of parents with that of their children, ſo that it is *morally inſeparable* therefrom: nothing but death ſhould be ſtrong enough to diſſolve parental affection.

Sch. 1.—Hence we ſee how very conſiſtent it is with human happineſs, and conſequently with moral law, that parents ſhould have a right to deviſe their property to their children.

Sch. 2.—What then is hard enough to ſerve as a reproach for the great neglect that is frequently ſuffered to take place in the education of children? How unaccountable is it to conſign them in their tender years to the company of rude or wicked perſons—to truſt them entirely to a maſter or a madam—to ſend them to a public inſtitution, and to be leſs concerned, with reſpect to their progreſs and conduct, than one would be about a horſe or any other favourite creature?

Sch. 3.—The very little concern men take in cauſing their children to have a proper ſenſe of religion, and their neglect of inculcating thoſe ſentiments of their dependence on God for all they have or may expect, which are ſo well calculated to make ſtrong impreſſions on their tender minds, and early habituate them to the practice of virtue,

virtue, form another aſtoniſhing proof that the preſent age has ſtrange notions of education. We ſhall not animadvert on the noiſy crowds of idle vagabond children who obſtruct the ſtreets by day, and particularly by night. Still we are republicans, and boaſt of republican manners!

The ſupport and education of children, which require the joint efforts of parents, are therefore further ſtrong arguments to prove, that no other connection of the ſexes can be naturally lawful but that which is founded upon a firm and permanent union of the parties in one common intereſt. This union is to be *indiſſoluble*; nothing but the death of one of the parties ought to cauſe a ſeparation.

Unhappy are the parties connected for life, who have given up all their individual intereſts, and placed their happineſs in mutual aſſiſtance, in reciprocal fidelity, and in joint efforts to promote the end of their aſſociation, if love be not both the baſis and ſoul of that union, and if there ſhould be cauſe to reſort to the perfect affirmative rights in each other's perſon which are naturally created by that union.—The moſt grievous injuries muſt ariſe, if one of the parties ſhould forſake the other, or be remiſs in performing thoſe duties which are neceſſary for the promotion of their joint happineſs and that of their children. Nature never fails to give rights adequate to the duties ſhe impoſes: perſons cannot form a diſtinct ſociety, nor lawfully have a ſeparate intereſt from others, but upon the ſtrength of particular rights required by the end of that ſociety, and adequate for the ſecurity of that particular intereſt.

There are likewiſe perfect affirmative rights required, that others may be excluded from lawleſs interference. Injuries attempted or committed againſt the

the peace of the union or the attainment of all its objects, muſt be prevented, warded off or repelled. Perfect affirmative rights are neceſſary, on account of the frailty of human nature, that fidelity be ſecured, internal ſecurity eſtabliſhed, and injuries corrected which might unfortunately take place between the parties.

Hence it follows, that no connections can be lawful which are not voluntary, reſting upon and proceeding from the mutual conſent of the parties: acts of violence are highly criminal, and, by the laws of civilized countries, offences capital and felonious.

Sch. 1.—The ſame concluſion flows from the conſideration, that connections cannot be lawful which are not founded on true love.

Sch. 2.—Unwarrantable as it is in children to ſlight the advice of their parents and friends, in concerns which have the greateſt influence on their happineſs, and as much as gratitude requires that they ſhould aſk their conſent; ſo, little can an interference be recommended which is dictated by ambition, avarice, or other ſordid views of parents, in matters which concern the peace and happineſs of their children.

Sch. 3.—But to diſapprove and oppoſe connections with wicked or profligate characters, is the duty of parents; and woe unto children who deſpiſe advice ſo truly parental!

From theſe ſeveral conſiderations it follows, that a connection between the ſexes naturally lawful, may be conſidered in one reſpect as a *voluntary ſociety*, which, as rights and obligations flow from the end and nature of lawful connections hitherto explained, is at the ſame time *equal*.—In another point of view, this connection has the form and comprehends all the ingredients neceſſary to a lawful pact; for, where perſons mutually promiſe the moſt ſacred fidelity in performing all that is neceſſary for the happineſs of their union and the advancement

advancement of its objects, and make a tender of perfect and affirmative rights in each other's perſon, there is both acceptance and transfer, conſequently a contract.

Although lawful connections are juſtly conſidered as contracts in the forum of nature, as well as in the civil, yet there is in them this vaſt difference from all other pacts which have for their object rights in things, that they muſt be conſiſtent with the natural rights in perſons, and that theſe rights muſt be modified by the nature and ends by and for which connections of the ſexes can only be lawful. There cannot be a claim to arbitrary and deſpotical ſway or ſlaviſh ſubjection: it cannot conſiſt with natural law, that an union be formed for a time, or diſſolved by mutual conſent. *Concubinage*, even where children are ſupported and educated, cannot be lawful, becauſe the bond of perpetual union, eſſential to common happineſs, is ſet aſide.

Whether lawful connections be conſidered as contracts or as voluntary equal ſocieties, they ought to be attended with certain external ſolemnities, giving them publicity to others, that no act may take place by which the peace and happineſs of the union, or its objects, may be diſturbed.

Beſides this, juſtice, decency and propriety dictate that deference to the good opinion of others, which is due to our fellow creatures and ornamental to the connection.

In both caſes, it is eaſy to determine, in general, the perſons who may or may not lawfully aſſociate:—Nature undoubtedly gives that right to ſuch as can make a lawful promiſe or give a valid conſent; but it

denies it to children, to lunatics, and to all ſuch as have not the phyſical or moral faculty to will or to perform. Neither can perſons form a lawful connection who are pre-engaged, or where any moral impediment is in the way.

We rather prefer, however, the conſideration of this ſubject under the idea of a voluntary equal ſociety, where the reſpective rights and obligations of the members reſult from the nature of the ſociety, not from the will or caprice of either or both parties: becauſe, if an union is bleſſed with children, a ſociety ariſes, which is altogether natural in its foundation, and conſequently neceſſary; for as ſuch the relation of parents and children muſt be conſidered.

Before we conclude theſe general principles and proceed to the ſeveral ſtates of men which reſt upon them, it will be neceſſary, for the ſake of perſpicuity, to reduce them to two principal points; the one depending upon the qualifications of perſons, or the requiſites of thoſe who may lawfully aſſociate; the other referring to the end or ends for which aſſociations made can only be lawful.

1. No connections can be lawful unleſs they proceed from the mutual conſent of the parties, and are formed upon the baſis of a perpetual union, eſtabliſhed upon true love and affectionate friendſhip, and ſupported by perfect and affirmative rights in each other's perſon, for the more effectual attainment of its object.

2. The end of this perpetual union muſt neceſſarily be the common and joint intereſt, the promotion of each other's happineſs, and the propagation and education of the children who ſhould derive their origin from it.

Sch.

Sch. 1.—Since this end is not always attainable in its full extent, children being a bleſſing of the Lord, not in the power of the parties, nor the excluſive conſequence of a lawful connection; it follows in this caſe, that a connection is lawful which extends no farther than a perpetual union for promoting each other's happineſs.

Sch. 2.—Connections which defeat that end are imputable to the moral cauſes, are extremely inhuman and criminal.

Sch. 3.—To make a ſingle life a virtue in itſelf, or the object of religious vows, is as unjuſt and barbarous as it is ſinful and ſuperſtitious.

CHAPTER IV.

Of the matrimonial or connubial ſociety.

THE end for which a lawful connection may take place is a perpetual union for promoting the happineſs of the parties: it likewiſe extends to the natural conſequences of that union, the propagation and education of children, in caſes where children derive their origin from that connection.

We may therefore diſtinguiſh a *proximate* and *ultimate* end: the former is in the power of the parties to obtain, and their indiſpenſible duty to purſue, by faithfully performing what is reciprocally neceſſary for their mutual happineſs, what may perpetuate their friendſhip, and contribute to the attainment of the objects of the union, as far as is poſſible: the latter has reſpect to the propagation of children, for which the Moſt High has ordered ſuch a lawful and perpetual union to be formed and conducted in conſiſtency with the deſtination of human nature, and conformably to his law.

If

If perſons veſt one another with perfect affirmative rights for the ends of mutual happineſs, the propagation and education of children, they are ſaid to enter into the *matrimonial ſtate*.

The matrimonial ſtate is diſtinguiſhed into the *connubial* and the *parental*.

In the connubial ſtate the relation is conſidered between *huſband* and *wife*; in the parental, that of *parents* and *children*.

Both the connubial and parental ſtates are morally connected where they are naturally ſo; that is to ſay, when huſband and wife are bleſſed with children, they are bound to the performance of the parental duties, to maintain, protect and educate them.

If one of the parents dies, the parental rights and duties center in the other; if both ſhould be called from the ſtage of life, theſe rights and duties naturally devolve upon thoſe of the neareſt relations who are beſt calculated for the charge.

If parents become naturally ſuch, by begetting children without having entered into the connubial ſociety, they ought, if poſſible, to become moral parents, by forming that indiſſoluble union upon perfect and affirmative rights, which veſts them with the rights of huſband and wife, and qualifies them for the performance of thoſe duties which are requiſite for the ſupport and education of their children.

Sch. 1.—Juſtice to the parties, to the children, to relations, and to ſociety at large, requires that this kind of reparation be made in all caſes where it is phyſically and morally poſſible.

Sch. 2.—Both theſe requiſites meet in ſingle perſons, and in ſuch caſes where the condition of the parties is not ſuch, that

that a greater evil would arife from the connection; but then certainly the poverty or low condition of one of the parties cannot be among the cauſes that render the connection ineligible. Vices, fraud, deception, and the queſtion whether the ſeducer is thereby brought to a better condition, are of more conſequence.

Sch. 3.—It may be ſuppoſed there is not a better mean by which ſeduction may be more powerfully diſarmed, and the innocence of the honeſt and induſtrious poor more effectually protected, than to compel the ſeducer to contract the connubial ſtate with the object of his criminal converſation.

Sch. 4.—If it be objected, that this would be founding a connection not upon true love and real friendſhip; we anſwer, that in caſe of an injury and a heinous crime, the firſt queſtion is the making reparation; and the ſecond, which is the moſt ſuitable puniſhment for an offence by which the laws of God, of men, of humanity, piety and decency have been wantonly tranſgreſſed?

Sch. 5.—Have not the children a natural claim? Is he a man who can deny his own fleſh?

Sch. 6.—Reparations of this kind are impoſſible, where either or both parties are under the obligations of a connubial ſtate; and this impoſſibility muſt be conſidered as one of the cauſes why adultery is of infinitely greater turpitude and malignancy than other lawleſs connections.

However, where children are not or cannot be the conſequence of the connubial ſtate, all the duties of huſband and wife center in the reciprocal rights and obligations which have for their object mutual happineſs and perpetual union; and that ſtate maintains the ſanction of the matrimonial.

The firſt caſe has reference to perſons who might naturally have expected the bleſſing of children; the ſecond relates to ſuch as have ſo far advanced in life that ſuch an expectation finds no place. There huſband and wife are bound to their perpetual union, becauſe they have purſued the ends of matrimony as far

as

as was in their power: here higher obligations may juſtify and render a connection eligible which is neceſſary for their mutual comfort and happineſs.

Sch. 1.—But let it be obſerved, that the latter caſe cannot be extended ſo far as to juſtify marriages obviouſly improper, between perſons of too great a diſparity of years for even happineſs to be thereby expected.

Sch. 2.—Thoſe who have become parents by a former marriage ought to avoid ſubſequent connections, which are injurious to the ſupport and education of their children.

CHAPTER V.

Of the more ſpecific rights and duties between huſband and wife.

SINCE lawful connections, as has been ſhewn, muſt have the nature of voluntary and equal ſocieties, it follows, that the matrimonial or lawful connubial ſociety muſt be equal; that is, no rights or obligations can take place between huſband and wife which do not flow from the nature and ſcope of that intimate relation. But as that ſcope is mutual happineſs, and as happineſs cannot ſubſiſt without order, peace, regularity, and an uniform direction of their joint will for the attainment of the objects of their perpetual union, it will be neceſſary for one of the members to have the general direction.

The queſtion then is, whether the huſband or the wife is lawfully veſted with that right? Among the variety of cauſes aſſigned for the appropriation of family government to the male ſex, we think this the moſt material,

material, that nature has formed that ſex for thoſe concerns of the family which generally lie beyond the walls of the houſe and ſurpaſs the limits of the field; whilſt the wife has her place particularly at home, where her infant children ſtand in need of her inceſſant care and aſſiſtance. At this rate, the huſband, who has his buſineſs both abroad and at home, muſt needs acquire a more extenſive knowledge of what is conducive to the promotion of the intereſt of his family; and it is natural that the direction of affairs ſhould devolve upon that perſon who is calculated to conduct it to the beſt advantage.

Sch. 1.—Happy that marriage where true love and faithful friendſhip bear ſway—where huſband and wife, guided by virtue and piety, vie with each other in the moſt aſſiduous efforts of benevolence.

Sch. 2.—Family affairs and family government ought to be conducted upon principles of humanity: deſpotical conduct in a huſband is barbarity—moderation and gentleneſs his greateſt ornament: modeſty, ſubordination and rational obedience in a wife are more excellent, more invaluable than all the jewels which India has or ſhall ever produce: but ſlaviſh ſubjection is a diſgrace, not to the poor ſufferer, but to the rude barbarian who diſhonours humanity.

The rights and obligations between huſband and wife are mutual or reciprocal; for only ſuch comport with the nature and ſcope of the connubial or matrimonial ſociety.

Hence it follows, that as the huſband has the chief government, ſo he is bound to conduct it only for the promotion of the joint intereſt: and the right of the wife is to expect or to have *maintenance*; that is to ſay, ſuch ſupport as comports with the good of the family, and is proportionate to its circumſtances.

Sch.

Sch. 1.—Our laws have exceedingly well provided both for the protection and ſupport of a wife; but it is a pity that a profligate huſband can fruſtrate thoſe laws, by ſquandering away all during his life-time, except where the family is poſſeſſed of a real eſtate.

Sch. 2.—It is therefore a queſtion, whether it would not be conſiſtent with good policy, as well as with the eternal laws of juſtice, that drunkards, gamblers, &c. be reſtricted ſo as not to have it in their power to diſgrace and ruin their families; ſince ſuch perſons are unfit for family government, and deſerve, as in ſome countries is the caſe, to be put under the direction of truſtees appointed by law?

Sch. 3.—The right of maintenance is the only right left to a wife that, according to the laws of ſome countries, is *divorced a menſa et thoro.*

The mutual rights and duties between huſband and wife are principally of the imperfect kind, and on this account are unlimited in extent, as much exceeding thoſe which are due to other perſons in intenſity, as their relation is the neareſt that is poſſible among mankind. Is love in general of an accommodating nature? is it benevolence and friendſhip to a well-wiſher? is it regard, eſteem, affability, and aſſiduity to pleaſe in near relations and equals? is it ſympathy, patience, forbearance, pity, or mercy, where mediocrity is its object, or where infirmities preſent themſelves, errors and failings take place, or even injuries and wrongs provoke? What is it that conjugal love cannot effect, correct or endure?

Even the perfect rights of man and wife, which extend to all that is neceſſary and in their power to promote the beſt intereſts of the union and the happy attainment of its objects, ſhould be performed, not from the low conſideration that the partner has a right to compel, but from principles of love, ſympathy, piety and humanity.

Much

Much leſs ſhould room be left for correcting the want of fidelity: appearances, even ſuſpicion, nay, any thing that can be a pretext for it, ought to be avoided. Actual breach of fidelity is a grievous injury of the moſt heinous nature, and a cauſe of inconceivable miſchief and unhappineſs.

There is no doubt but that there are injuries poſſible, which in themſelves would be ſufficient cauſes for diſſolving the connubial or matrimonial connection.

The legal declaration that the bond of matrimony is diſſolved, is ſtiled *divorce.*

The relation between huſband and wife may be entirely annulled, or the laws of the land may leave to a repudiated wife ſome of the rights of matrimony, to wit, the right of maintenance. In the former caſe the divorce is *total*; in the latter it is *divortium a menſa et thoro.*

The natural laws admit not of total divorces, where innocent children are affected and perſons deprived of all their dependence, as muſt be the caſe with a repudiated wife; for ſuch an effect cannot be reconciled to the nature of equal ſocieties, and can only comport with deſpotic ſway on the part of a huſband.

Neither do the principles of eternal juſtice require a remedy, which, in its operation, produces more evil than good, and applies not to an impartial adminiſtration of juſtice. What would become of the conjugal ſociety, the nurſery of church and ſtate, if every or even any injury could break the ſocial union? What a temptation to frail mortals for becoming remiſs in the exerciſe of the duties of humanity, if the moſt powerful motives for mutual compliance between the parties

be taken away! Whilſt, on the other hand, the conſciouſneſs of the indiſſolubility of the connection muſt be a conſtant ſpur to their aſſiduity in performing, with faithful ſincerity, the mutual duties of benevolence, ſympathy, and even forgiveneſs. He that fears God, and is faithful in his endeavours to promote the cauſe of virtue, will not wiſh to be freed from an injury at the coſt of humanity and to the detriment of human happineſs, which muſt be the conſequence when a diſſolution of the connubial tie can be expected.

It is true, that adultery on the part of a wife is an aggravated injury, as children are introduced in the family to the injury and diſgrace of the huſband. But ſhould the puniſhment of infidelity fall only on the ſide of the wife? Should ſhe not have an equal right againſt a faithleſs huſband?

Had not the parties their choice in forming the connection? Does it not very much depend upon the diſcretion, prudence and virtuous intention of this choice, that the ſociety be eſtabliſhed upon virtuous love? Does it not generally depend upon their virtuous conduct to ſtrengthen the bond of union? Are there not perfect rights to check what is obnoxious to the peace, confidence and happineſs of the parties? Are there not a thouſand remedies ſhort of a total or partial diſſolution?

So much is certain, that it is often the puniſhment, and for the moſt part a juſt one too, that parties ſhould remain bound in a connection begun improperly, and conducted imprudently and impiouſly.

The ſeducer deſerves indeed the higheſt puniſhment, as he is the principal and moral cauſe of inexpreſſible miſchief, and an irreparable injury.

Adultery

Adultery is doubtleſs one of the greateſt injuries that can happen to a family, if committed with a ſingle perſon; for no ſatisfaction can be made without adding to the damages of a faithful partner: but when this crime is committed by perſons on both ſides bound by the ſacred duties of a connubial ſociety, it ſurpaſſes eſtimation—the damages are far beyond calculation.

If, notwithſtanding theſe conſiderations, experience ſhould render legiſlative interference eligible; if there ſhould be caſes where a divorce is become expedient, we think it ſhould not be extended, on the ſide of the woman, further than *divortium a menſa et thoro*. Nothing appears from the principles of nature, why the wife ſhould not have the ſame right, together with a generous maintenance from the eſtate of her huſband, in caſe he ſhould be found unfaithful to his matrimonial engagements.

What may be ſaid of another marriage, with reſpect to either party, is very difficult and precarious: and even this intricacy and difficulty is in favour of our principle, that a divorce ſhould not be ſanctioned by the laws of the land.

There is another queſtion with reſpect to the connubial ſtate of perſons who cannot form lawful connections; but we have here no occaſion to ſpeak of divorce; the bond of lawful union is not diſſolved, for there was no ſuch thing from the very origin of the connection. The laws of the land ſhould rather endeavour to prevent than to *annul* them.

Connections are *annulled*, when they are declared by law invalid and void.

Thoſe marriages are *void*, where the contract is made by

by perſons who have not the phyſical or moral faculty to will and to perform: the former is the caſe with all who have not the exerciſe, or have not arrived to the maturity of their underſtanding; likewiſe with ſuch as are bound by a former marriage: the latter refers to natural infirmities, and to ſuch perſons as cannot perform the parental duties; alſo to caſes where the connection is contrary to the ſcope of the connubial and parental ſtates; for inſtance, conſanguinity, &c.

There are no other *prohibited degrees* reſulting from principles of the natural law, than thoſe which are expreſsly laid down in ſcripture.

Marriages or connections within the prohibited degrees are highly criminal, and are juſtly branded with the appellation of *inceſt*.

CHAPTER VI.

Of the parental ſociety.

THERE is no doubt but the relation of parents and children is one of the greateſt bleſſings of this life, if it takes place in conſequence of a happy, firm and eſtabliſhed union of parents connected in a lawful connubial ſociety: their common intereſt becomes greatly enhanced by having thoſe who are their fleſh and blood the particular objects of their care; conjugal felicity grows with their growth; and there are innumerable endearments attending their education, which is the moſt important, and at the ſame time the ſweeteſt and

and moſt delightful duty, requiring the joint efforts of both parents who are bleſſed with offspring.

But if that relation takes place by means of lawleſs connection, children are ſo far from being a bleſſing to the guilty tranſgreſſors of the law of nature and of nature's God, that they publiſh the diſgrace and proclaim the criminality of their parents, who have thus offended againſt God and againſt man, who have thus injured both their own character and that of their children.

Sch. 1.—To diſgrace is added miſery and a deſtitute condition: children often do not know their fathers, or if they know them, they have no legal claim to their protection and care.

Sch. 2.—Hence ariſes the neceſſity that parents ſhould, if poſſible, take upon themſelves the duties of man and wife, by entering into the connubial ſtate.

Sch. 3.—Behold the horrid effects of adultery, fornication, a looſe and diſorderly life! Parents ſin againſt their own fleſh and blood; they become worſe than brutes!

With reſpect to the parental ſociety, we have firſt to enquire into the duties and rights of parents, and then conſider the obligations and rights of children.

Beſides the imperfect duties of humanity, which indeed have no limits aſſigned them but theſe, that they muſt be perfectly conſiſtent with thoſe duties which are due to God, to themſelves and to others, parents owe perfect duties to their children; for, next to God, they are the authors of their exiſtence, and by neglecting them they would be guilty of injuries againſt their own fleſh and blood, and againſt the whole human race.

The perfect duties of parents comprehend the maintenance, protection and education of their children; for it is the deſign of Providence, that parents ſhould promote

promote the happineſs of their children, by endeavouring to render their ſouls and bodies as perfect as poſſible, and by procuring them thoſe means by which theſe ends may be attained.

Parents muſt *maintain* their children, that is, give them their neceſſary ſupport, until they are able to ſupport themſelves: without this their life and health cannot be preſerved, which however are amongſt the moſt eſſential duties which parents owe to the bodies, and are preſuppoſed by the ſtill more important duty which they owe to the ſouls of their children.

Sch.—Parents therefore have to maintain and to protect their children, and to render their bodies and ſouls as perfect as poſſible.

The education of children is very comprehenſive, and naturally co-extenſive with the power of the parents, the capability of the children, and with other ſuitable circumſtances.

The moſt general traits of this great duty are, firſt, that children be fitted for the duties of life, and led to an honeſt and uſeful occupation, for which they ſeem beſt calculated by Providence, that they may ſupport themſelves: ſecond, that parents do all in their power that their children may become able to promote their own felicity and that of others. Thus the deſigns of Providence are beſt promoted, when children in their time become good parents, good citizens, bleſſed inſtruments for ſpreading abroad the effects of benevolence, guarded by virtue and directed by piety.

Sch. 1.—Need parents be told, that idleneſs is the bane of deſtruction to youth? Can there be occaſion to ſhew their great obligation to ſend their children to ſchool?

Sch 2.—It may be right that parents, in a colliſion of obligations, or when better opportunities offer, transfer theſe duties

duties to others; but they ought to be ſenſible, that the delegated duties are their own; and it remains an important, though too much neglected, obligation with them to ſee that the truſt is faithfully diſcharged.

Sch. 3.—Parents who have no opportunities to have their children inſtructed, ought themſelves to undertake the taſk of giving them all the inſtruction in their power.

The duties of parents cannot extend beyond the ends or cauſes of them; for, as all that parents have to do reſolves itſelf into the general duty of aſſiſtance, which ceaſes as ſoon as perſons can help themſelves, we may conceive three different ſtates with reſpect to children, of which the

1ſt. Is, that in which children muſt have ſupport from their parents or from others, the ſtate of *childhood*.

2d. That wherein children may ſupport themſelves, the ſtate of their *minority*.

3d. That in which they are able to promote their own happineſs and that of others, the ſtate of *majority*.

The duty of maintenance ceaſes with a ceſſation of the ſtate of childhood; that of education with the ceſſation of the years of minority.

Sch. 1.—From the natural conſtitution and particular frame of the mind, which is very different in individuals, a vaſt difference muſt ariſe with reſpect to the number of years to which each of the above mentioned ſtates of children is confined: much alſo depends upon their diligence, application, good conduct, and the opportunities they may enjoy; ſo that it is difficult to draw exactly the line when and at what particular period the two laſt of theſe ſtates begin or end.

Sch. 2.—Among the various determinations concerning the ſtates of children, and their rights and duties in conſequence of them, adopted by the law of England, which is generally followed by the legiſlatures of the United States,

States, we only mention thoſe which ſeem to accord beſt with the principles of nature, to wit, that children be ſuppoſed to poſſeſs *diſcretion*, and to have the right to chuſe for themſelves their guardians, at the fourteenth year; that they have their *full age* at twenty-one, and the right to diſpoſe of themſelves and of real eſtates.

Sch. 3.—According to the principles of nature, children cannot have the direction of rights in things or in perſons before they have the full exerciſe of underſtanding—know what is good or bad, right or wrong: otherwiſe they might make diſpoſitions contrary to the dictates of natural law.

Sch. 4.—Hence reſults the propriety of allowing children the right of diſpoſal, with reſpect to things of which they may have obtained a ſufficient knowledge, whilſt they may not diſpoſe of others.

Sch. 5.—It is likewiſe neceſſary for the happineſs of children, that they may diſpoſe of certain things, or of themſelves in ſome degree, before the term fixed by law for their full age, or the ſtate of their majority.

Sch. 6.—From this it appears, that children ought not to enter into the matrimonial ſtate without the conſent of their parents or guardians, under the ſuppoſition that they do not reſiſt higher obligations, which render ſuch a conſent exceptionable.

Sch. 7.—But it is not at all conſonant to reaſon, that the conſent of parents ſhould introduce children into that ſtate before they have the exerciſe of their underſtanding.

The duties of maintenance, protection and education undergo various modifications, keeping pace with the condition of children, and reſpectively ceaſe at the periods of childhood, minority and majority; that is to ſay, parents have no occaſion to maintain and protect their children, if they can ſupport and defend themſelves; they are free from the duties of education, if they have done ſo much that children can promote their own happineſs and that of others. They may then conſent to their marriage, and entruſt them with the

the management of affairs, when they are calculated to become good parents, good citizens, &c.

But parental love, the tendereſt affection, taking a moſt lively intereſt in all that concerns the happineſs of children, cannot ceaſe but with life, and ought to be viſible in its effects after death. We ſet it down as a parental duty, that parents leave ſome of their effects to their children after their deceaſe. It is on this account chiefly, that nature has veſted perſons with the right of property, that they may render their family uſeful to ſociety: and the greateſt good the father of a family can do is to take care of his own houſehold. So far then is the right to diſpoſe of our property for the benefit of our children from being an infringement upon the general rights of mankind, that a contrary conduct would be injurious to ourſelves, to our children, and to the community; more particularly ſo when our parents have rendered our condition comfortable, or when our children have faithfully aſſiſted us.

From the great fondneſs and provident care which our parents feel for our children, it ſeems that we perform acts of gratitude to our parents for the particular care received at their hands, if we endeavour to render our children happy here and hereafter.

Sch.—Inſtinct and duty conſpire in dictating to parents the juſtice to beſtow benevolence upon their children with as impartial a hand as poſſible.

The rights and authority of parents flow from their duties, and are, in every other reſpect, co-extenſive with their obligations; from which it follows, that ſome will ceaſe when the obligations ceaſe, others will be cotemporary with the parental relation.

Thoſe rights which have reference to the duties of maintenance, protection and education, in all their ſtages, undergo various modifications, according to the advancement of children towards maturity, and ceaſe when they become of age.

Theſe rights conſtitute the parental power, and extend to neceſſary diſcipline, to the ſervices of their children, to the chuſing for them occupations, to the giving them advice, to binding them to an apprenticeſhip, to placing them under the care of tutors or guardians, to conſenting to their adoption, &c.

They have a claim to the love, reſpect, gratitude and aſſiſtance of their children; for which cauſe the municipal laws juſtly command the latter to maintain their parents, and even their grand-parents, if they ſhould have need of their ſupport.

The rights of children are nothing elſe than the object of the parental obligations hitherto explained, together with thoſe unalienable natural rights in perſons upon which it is not lawful for parents to treſpaſs.

The filial duties are love, reſpect, gratitude in the higheſt poſſible degree, with all thoſe marks thereof by which the ſincerity of their beſt endeavours may be manifeſted.

During the time of their non-age, ſubmiſſion, ſtrict obedience and faithful aſſiſtance are perfect duties, which ought to flow, not from a dread of parental power, but from a principle of love, reſpect and gratitude.

Nothing but a colliſion of higher duties can juſtify even the appearance of backwardneſs in receiving and following the advice of parents.

Sch.

Sch.—Virtuous parents will not adviſe children to do evil, nor bind them to a conſent which is inconſiſtent with their happineſs.

The leaſt that children can do by way of retribution, is to render the ſituation of their parents as eaſy and pleaſant as poſſible.

Children are moſt ſacredly bound to maintain their parents: if ſuch a mark of gratitude is neceſſary, they ſhould give it with delight.

Teachers, guardians, &c. are under parental obligations and veſted with parental rights: they ought to exerciſe them with that ſincerity, gentleneſs, aſſiduity, faithfulneſs, moderation and watchfulneſs, requiſite in fathers who truly love their children.

Wards, and thoſe who enjoy the advantages of education by others, are naturally bound to pay their guardians, &c. the reſpect, obedience, love and gratitude due from children to parents.

CHAPTER VII.

Of the herile ſociety.

THAT ſociety where one member has perfect affirmative rights in the perſons of others, for directing their actions to the promotion of his particular intereſt, is called the *herile ſtate*; the perſon veſted with that right is called *maſter:* the actions to be performed for another's advantage in conſequence of ſuch rights are comprehended under the appellation of *ſervices*, in the ſtrict ſenſe of the word; and the perſons under obligation to perform ſuch actions are ſtiled *ſervants*.

Sch.

Sch.—As there is a great variety, both of modes and actions, by which others may be aſſiſted or their intereſts promoted; and as innumerable modifications may take place with reſpect to the affirmative rights which one perſon may have in another for that purpoſe; it is evident that there is a great variety of ſervices, and that the principles of the herile ſtate are applicable to a vaſt number of ſpecific ſocieties, where the relation of maſter and of ſervant takes place.

Since daily experience evinces, that ſervices are required for the management of families in the maintenance and education of children, it follows, that perſons under certain circumſtances may have a natural right to exert themſelves, conſiſtently with the dictates of natural law, to acquire perfect affirmative rights in others, for the purpoſe of promoting their particular intereſts: that is to ſay, perſons under certain circumſtances have a right to become *maſters*.

Hence it follows, that the ſame modes by which perſons may lawfully acquire rights in others, are the modes by which perſons may lawfully become maſters of their fellow creatures.

Likewiſe, perſons, notwithſtanding their abſolute natural rights, which are perfectly equal with thoſe of their fellow creatures, may happen to be in a ſtate where the unalterable principles of nature, juſtice and equity require that they ſhould come under perfect obligations to aſſiſt others by their ſervices—if, for inſtance, they can thereby render their ſtate more perfect; if, having been guilty of committing injury and damage to their neighbour, they have no other or not a more eligible mean left whereby reparation can be made; or, laſtly, if injury and damages would accrue from the non-performance of ſuch ſervices.

Perſons,

Perſons, therefore, become ſervants in a manner conſiſtent with the principles of natural law, either by *pact*, by the *right of forfeiture*, or by *law*. In the firſt caſe, the herile ſociety is voluntary, and reſts upon the mutual conſent of the parties; in the ſecond and third it is neceſſary, reſting upon the principles of natural law.

The herile ſociety, however it may be modified, whether it be voluntary or neceſſary, cannot be lawful except it be equal; that is to ſay, except the ſocial obligations flow from the end, that is, from the nature of the ſociety: becauſe no ſociety can be lawful if the end thereof is contradictory to the dictates of natural laws, which is moſt evidently the caſe with all manner of unequal ſocieties: for, as the ſocial obligations, according to the definition which has been given, depend upon the will and caprice of the claimant of the ſocial right, a ſociety would take place, having for its end the humouring and ſatisfying the will of a mortal, whatever he might direct or command, good or bad, right or wrong. Is it not impiety to hold up ſuch a right on the part of a frail creature, liable to error, a worm of the earth; when only the *Moſt High*, who cannot err, who wills the happineſs of his children,—when he only is entitled to ſuch ſubjection, to ſuch implicit ſubmiſſion? And behold, he does not exerciſe that right he condeſcends to the indigent creature! he demands obedience to his laws, becauſe that obedience renders his creatures happy.

Can a moral agent, reſponſible to God for all his powers and faculties, and bound by the moſt ſacred duties to God, to himſelf and to his fellow creatures—can he, conſiſtently with the dignity and high deſtination

tion of his nature, conſiſtently with the law of nature and with the will of God—can he render himſelf abject as a brute, give up his abſolute natural rights, and idolize him who is but duſt of the earth, make the will of a man his ſupreme and only law? No: to conſent to ſuch a ſtate is the more horridly impious in a perſon, as he ſins not only againſt God, but againſt himſelf and againſt humanity.

If the law of reparation is nature's law and the will of God, who delights in righteouſneſs, we may eaſily infer, that reparation cannot be exacted, or pretended to be made, in a manner inconſiſtent with the moral nature of men and with their reſponſibility to God.

All ſervitude, therefore, is unnatural and unlawful, whether founded in conſent or on force and compulſion, where the obligations do not flow from the nature or the ſcope of a herile ſociety, where they are inconſiſtent with the dictates of natural law and repugnant both to the rights in things and in perſons. The fowler and the encaged bird, the ravenous wolf and the innocent lamb, or the hawk with the harmleſs dove in his talons, might as well be ſaid to be members of a natural ſociety, as thoſe inhuman monſters who take advantage of the ſimplicity or impotency of their fellow creatures, and domineer over them with deſpotic ſway, have a claim to the ſtate of lawful maſters.

Sch. 1.—Tyranny is not to be looked for in deſpotic governments alone; it often takes root and exerts its fury within the walls of a family. Here we frequently find deſpotic ſway under the maſk of parental power, and tyranny exerciſed againſt ſervants by the maſter of a family, and not ſeldom by children. The nature of the herile ſociety is, however, ſtill more generally forgot on the part of ſervants, and that fidelity, induſtry, œconomy, humility, ſobriety, reſpect and gratitude wanting, by which their own

own happineſs and the particular intereſts of their maſters would be truly and effectually promoted.

Sch. 2.—If nature has provided rational maſterſhip, ſhe has likewiſe ordered rational obedience.

A voluntary ſervitude laſts as long as the members of the ſociety have ſtipulated by mutual conſent, that the relation of maſter and ſervant ſhall ſubſiſt, and of conſequence may be *temporary* or *perpetual.*

Temporary ſervitude, which is voluntary, may be determined with reſpect to a certain fixed term of time, or with reſpect to a certain work to be done: the latter caſe, however, rather refers to the ſubject of contracts under the forms, *do ut facias*, or *facio ut facias.*

The neceſſary herile ſociety, founded upon the right of forfeiture, implies a ſervitude which muſt be equivalent to a neceſſary reparation of damages, and may be temporary or perpetual.

But it is generally otherwiſe in caſes where the ſociety reſults from law: the ſervices of children to their parents, or to thoſe who have beſtowed upon them the parental duties of maintenance and education, ceaſe when they amount to a reaſonable compenſation for the trouble and expences which have been cauſed thereby.

Whatever the herile ſociety in this reſpect may be, whether temporary or perpetual, the maſter has a right to direct in what manner he is to be aſſiſted, or his intereſt promoted: this right flows from the ſcope and nature of that ſociety, if care is taken not to extend it to a contravention of the expreſs ſtipulations agreed upon in voluntary ſocieties, or to what is unlawful both with reſpect to the rights in perſons and in things.

No

No ſervant is therefore bound to obey the unlawful commands of a maſter; for it is repugnant to his moral nature and reſponſibility to God.

Sch. 1.—A ſervant, of whatever deſcription he may be, has therefore no excuſe in obeying his maſter's will to the injury of another perſon.

Sch. 2.—Behold, then, the debaſed ſtate of a mercenary ſoldier!

A maſter may not burden a ſervant with more work than is conſiſtent with the powers of ſuch ſervant to perform.

A maſter is bound to give his ſervant ſufficient meat, drink, apparel, time for refreſhing his body, and for performing thoſe duties to God and to himſelf which are incumbent upon him as a moral agent, reſponſible to his creator: beſides theſe and a thouſand other duties of humanity, he is ſacredly bound to protect his ſervant againſt injuries from others, whether intended, or committed by ſuch as are a part of his family, or by ſtrangers.

A maſter is bound to reward his voluntary ſervants, by honeſtly paying the ſtipulated price for their ſervice.

The ſervants whom he holds by forfeiture, and conſequently has paid before hand, he ought to direct with humanity and command with gentleneſs: he muſt likewiſe render their ſituation as comfortable as circumſtances will admit.

The maſter has a right, nay, it is his duty to reſtrain his ſervants from doing evil, or from committing injury; for all miſchief committed by them is imputable to the maſter's will, if he cannot make it appear that he has done his part to prevent it.

That maſter can hardly fail of having good and faithful

faithful ſervants, who ſets them an example of humanity and virtue, and inſtils into their minds the fear of God, and the neceſſity of preſerving a good conſcience.

Where the end of the ſocial connection is a particular kind of ſervice or truſt, the maſter has no right to direct any thing contrary thereto; for inſtance, an apprentice bound to a trade, &c.

Where no ſtipulations have been made with reſpect to the particular kind of labour, either in regard to quality or quantity, the known cuſtom of the country determines what may be lawfully exacted.

The duties of ſervants reſolve themſelves into the moſt ready obedience, unabating induſtry, and ſtrict faithfulneſs in performing all the lawful commands of their maſter; his intereſt muſt be ſtudied in all their conduct, and they muſt demean themſelves in a peaceable, orderly and grateful manner, and omit nothing that may render them worthy his eſteem and good will, as well as that of his family.

Let ſervants not forget their accountableneſs to God for all they do, and particularly for their conduct, and the performance of the duties of their ſtation. That noble reſolution of Joſhua, *As for me and my houſe, we will ſerve the Lord*, (xxiv. 15.) is an example worthy the imitation of maſters and ſervants.

Servants are bound to protect their maſter's perſon, family and goods.

Sch. 1.—The unnatural injuſtice of ſlavery, both with reſpect to maſter and ſervant, has already been ſufficiently ſhewn; we ſhould therefore have ſaid nothing of it, were it not that the poor victims of avarice, kept ignorant with reſpect to their duties to God and to men, are to the utmoſt dangerous in debauching the manners of children, who

are carelefſly permitted to be in their company, where their juvenile follies and caprices are humoured and obeyed with the ſame abject ſubmiſſion which muſt not fail to be paid to the maſter or miſtreſs of the family: the *young maſter* and *miſs* ſoon forget that they have to do with the human ſpecies, and imbibe the love of tyranny and vice almoſt with their mother's milk.

Sch. 2.—The idea of ſlavery has already ſo far advanced in our free country, that even the children of the farmer refuſe the moſt neceſſary work, ſuch as is eſſential to the management of a farm, under the fooliſh notion, that it is degrading to a freeman, and an occupation only fit for ſlaves.

Since there are reciprocal rights and obligations in equal ſocieties, flowing from their nature, it follows, that it is poſſible for maſters and ſervants to injure one another; the former, if they exact more ſervices than are due, deny the payment of juſt wages, neglect what is neceſſary for the ſupport, protection and refreſhment of the ſervants, exceed the juſt bounds of diſcipline and correction, &c.: the latter commit injury if they perform not faithfully all lawful ſervices, if they neglect to aſſiſt their maſter, idle away their time, ſquander away their maſter's ſubſtance; if they ſubmit not to his advice, or leave his ſervice, or behave diſorderly and diſturb the peace of their maſter's family, &c.

A maſter is injured when others ſeduce his ſervants, or have any commerce or converſation with them, whereby the end of the herile ſociety is affected or fruſtrated.

A maſter may lend the ſervice of his ſervant for a time, becauſe it is conſiſtent with humanity and juſtice that others be aſſiſted.

There may be circumſtances where a maſter may alienate the ſervice due upon forfeiture, under condition

tion that the ſtate of the ſervant becomes not worſe: all other alienations of right in this reſpect ought to ariſe from expreſs ſtipulations of voluntary ſocieties, or, where ſuch ſtipulations cannot be made, from the mutual conſent of the parties.

No perſon can be born a ſlave, becauſe ſlavery is utterly contradictory to natural law.

It is poſſible, however, that one may become by birth a temporary ſervant: for inſtance, a child born of a woman who is either a perpetual ſervant, or bound to ſervice for a conſiderable length of time: the child muſt be ſupported and maintained, and ſhould even be educated by the maſter of ſuch ſervant: whence it will be neceſſary, that the child in the firſt caſe ſhould be bound by the principles both of juſtice and gratitude to indemnify the maſter for his care, trouble and expence; and in the ſecond, either the ſervant or child muſt do it. Here many cauſes concur, which render it conſiſtent with prudence and juſtice, that the mother ſhould conſent to the temporary ſervitude of her child, particularly when there is on this ſide the beſt proſpect for its maintenance and education.

Sch. 1.—Such like caſes are inſtances of the herile ſociety founded in *law*.

Sch. 2.—The ſervitude of children to their parents, as founded in law, cannot extend further than the ſtate of their minority, and ought not to exceed that ſtate with reſpect to the children of ſervants, except the expences of their maintenance and education have amounted to more than the ſervice of ſuch a ſpace of time can reaſonably compenſate.

Sch. 3.—It is not to be reconciled with natural equity, that the children of ſervants ſhould be bound for a longer term, becauſe the maſter was at a trouble againſt his will; for, if it be conſidered that the children cannot, at leaſt ought not

not to expiate injuries committed by their parents, it will be plain, that they cannot be held in ſervitude when compenſation is made for their maintenance and education.

Sch. 4.—It is more conſiſtent with natural laws, that the maſter ſhould feel an inconveniency from that which in many inſtances may be attributed to his careleſſneſs in not ſufficiently watching the morals or giving inſtruction to his houſhold.

Both the rights of maſters and the obligations of ſervants keep pace with the various circumſtances of the herile ſtate: for inſtance; in the military ſervice, command, in time of an invaſion, muſt be extremely ſtrict, and obedience almoſt implicit; becauſe ſocial rights and obligations flow from the nature of the ſociety as well as from that of the circumſtances.

CHAPTER VIII.

Of the domeſtic ſociety.

THE ſociety which comprehends the connubial, parental and herile ſtates, is called *domeſtic*, and may be defined to be that in which perſons have perfect affirmative rights in the perſons of children or ſervants, for directing their actions and ſervices in ſuch a manner as that the peace and ſecurity of the whole ſociety may be preſerved, and its happineſs promoted.

Perſons veſted with that right are called the *heads of the family*; thoſe who are under perfect obligations to perform actions and ſervices for thoſe ends, are comprehended under the appellation of the *houſhold*.

Sch.

Sch.—The houſhold of a family may be the children or the ſervants, or both: in the firſt caſe the houſhold is *incomplete;* in the laſt it is *complete.*

Since the right of directing the actions of others to a certain end is called government, it follows, that thoſe who are the heads of families are veſted with family government.

The parents in a family are by nature its heads, and have the right of family government; for parents have a right to direct the actions of children, as well as the right lawfully to endeavour to obtain perfect affirmative rights in ſervants, for directing their actions ſo that they may be aſſiſted in the duties of maintaining and educating their children, and for having their intereſt, with that of their connection and its objects, promoted. But, either children or ſervants, or both alike, conſtitute the houſhold: they conſequently are ſubjected to the heads and governors thereof.

The domeſtic ſociety is compound, for it conſiſts of the connubial, the parental, and the herile.

It is likewiſe *equal*, for theſe are equal.

The right of the heads of a family, or their power and government, cannot be deſpotical, but is limited.

A right to direct the actions of others implies authority for enacting laws, and for publiſhing and putting them into execution; becauſe the nature of free agents is ſuch, that they ought to be ſo directed as that motives ſhould be connected with their actions. From a connection of motives reſult obligations, and rules importing theſe are laws.

Family government, therefore, is not a government of arbitrary will, but a government of laws.

Since

Since no laws can be juſt which have not a good for their object, it follows, that no family laws can be juſt except they have the good of the whole family in view.

The common good of a whole family will be conſulted, if the ends of the herile, the parental and the connubial ſtates are ſo modified, that they be in the greateſt poſſible harmony, and that each particular ſociety finds its greateſt advantage in the union for a common intereſt.

Since the principal ends of the connubial and parental ſtates are the mutual happineſs of the parents in a perpetual union, and the propagation and education of children; and ſince the ſcope of the herile ſociety, on the one hand, comprehends the ſervices of children or of ſervants neceſſary for the promotion of theſe ends, and on the other, requires the neceſſary ſupport, refreſhments, protection and juſt retribution, as the caſe may be; that is, requires the happineſs of the parties; it follows, that the domeſtic ſociety muſt have for its end a common good, wherein all its members are intereſted, and the felicity of all the ſtates of which it is compoſed ſecured and augmented.

Since all the laws of a family muſt center in the common good of all the members thereof, it follows, that we may lay down as the fundamental law of family government, this propoſition: Direct you actions ſo that the common good of the whole family may be obtained, preſerved and promoted.

Sch.—What is repugnant to this law is unjuſt and unreaſonable, whether the action proceed from the head of the family or from any member of the houſhold.

There

There are various things neceſſary as means for the ſupport and convenience of a family: ſome of theſe have a direct, others an indirect influence on all its members; but all ſerve to promote the common good of the whole ſociety, if care is taken that they do not interfere with one another; that is to ſay, if that order is obſerved, with reſpect to time, place and other circumſtances, which the ſcope of the ſociety and the nature of theſe circumſtances require.

The head or heads of a family, therefore, may make rules, nay, even transfer the direction to others, for the regulation of the ſervices; and the ſervants are bound to follow thoſe rules.

The laws of a family cannot bind to things unlawful, nor to ſuch as are not in the power of ſervants, or are contradictory to their unalienable natural rights.

A family cannot be happy, where there is cauſe to dread evil within or injury from abroad.

The heads of a family muſt therefore make rules for the internal peace of the ſociety, and for its protection againſt injuries from abroad.

Servants are perfectly bound to obey ſuch rules: they muſt not injure any of the family, or any other perſon or ſociety; for by the former the peace of the family is interrupted; by the latter others may have cauſe to diſturb its ſecurity.

As the ſtate of a houſhold becomes inſecure and unhappy when the heads of a family injure others, it follows, that heads of families injure their houſhold if they do not endeavour to prevent the enmity of their neighbours.

If the heads of families be therefore the aggreſſors, the houſhold are prohibited by higher obligations from ſupporting them in their injuſtice.

On the contrary, if the houſhold are injured by perſons abroad, or by another houſhold, the heads of the family are bound to protect them.

A family that avows an injury done by one of the houſhold againſt another perſon or houſhold, or a member thereof, and refuſes reparation, injures that perſon or houſhold, and gives a juſt cauſe for war.

The heads of a family engaging in a juſt defence or war, have a perfect right to be aſſiſted by their houſehold; for without that aſſiſtance the common good of the family cannot be preſerved.

CHAPTER IX.

Of communities.

IT may be for the happineſs of ſeveral families to enter into a ſociety for common defence, and for promoting their local intereſts. Here the heads of families may meet and conſult, each ordering his own family ſo that harmony and amity be preſerved, and ſuch things performed as may cement their union, and give it ſtrength and ſecurity againſt intruders or invaders.

Such a ſtate we may call a *community*; of which moſt of the Indian nations are inſtances.

As the intereſts of families aſſociated in a community, without a general government and a uniform conduct

conduct of all its members, cannot but frequently clash; and as, in cases of common danger, defence and war must be conducted with a certain degree of uniformity, and under the direction of a leader; human prudence, nay, necessity, the mother of wisdom and invention, must soon point out the danger of a want of system, and the propriety of coming under one rule and under one direction for the peace and security of the whole community, and the happiness of each of the constituent families.

The same causes which first prompted a confederation of families, have no doubt given rise to communities associated under one general law and government.

Communities united under one law and government are the constituent societies of *states*.

Sch.—Instances of such societies are the incorporated cities or towns, the townships or districts of states—in fine, all manner of civil societies, the government of which is local.

That general society which comprehends the interests of individuals, of families, and of communities spread over an extensive tract of country, is called the *civil*.

PART II.

Sect. IV. *Comprehending politics.*

CHAPTER I.

Of the nature and difference of civil ſocieties or ſtates.

HAVING in the preceding ſection briefly explained the principles of natural juſtice and equity, with reſpect to the conduct of perſons, who are members of the moſt intimate ſocieties among the children of men, the object of which is confined to the particular intereſts of families and neighbourhoods; it is proper that we ſhould now proceed to the conſideration of that *general ſociety* which comprehends both the individual and ſocial concerns of a vaſt multitude of perſons, families and communities, having for its ultimate end the *public good*; that is to ſay, the felicity of all.

This great and general ſociety, comprehending the intereſts of all other aſſociations, and having for its ultimate object the felicity of all its members, is, *by way of eminence*, ſtiled *civil.*

If civil ſocieties are conſidered in their relation to one another, they are called *ſtates:* thus we find the globe divided into various empires, kingdoms and republics, all which agree in this their general character,

racter, that they are ſtates under different forms, modifications, laws and governments.

Civil ſociety, or a *ſtate*, may be defined to be that general ſociety, the members of which have transferred their will and power to a certain perſon, for the attainment, preſervation and advancement of the public good. The members of civil ſociety are called *citizens*.

Sch. 1.—The very neceſſity of the caſe renders a transfer of that nature neceſſary, as ſoon as the extent of a ſociety is too great to admit of a perſonal attendance of all the members for deliberating on thoſe things which are neceſſary for or conducive to the felicity of the whole body.

Sch. 2.—All authors on morality agree, in general, with reſpect to the transfer of will and power, and all governments act upon it; there is, however, this difference, that whilſt the former have much controverſy among themſelves in determining the originating cauſe of that transfer, the latter are very apt to forget the ſource and foundation of their power and political exiſtence, and often ſubſtitute their own will for that of the whole ſociety over which they rule.

Whether ſuch a transfer of the public will and power is made, or ſuppoſed to be made, to one or to a certain number of individuals, the conſequence is, that a *moral perſon* is thereby conſtituted, ſo that ſuch perſon, or perſons as the caſe may be, becomes a *public perſon*, veſted with public rights, and is under public obligations.

Sch. 1.—From the modifications of the moral or public perſon in a ſtate, reſult, as we ſhall ſee hereafter, the different *forms* of governments, the monarchical, the ariſtocratical, the democratical, &c.

Sch. 2.—The transfer itſelf may be variouſly modified and limitted: from theſe modifications and limitations reſult the *qualities* of government; whether a ſtate is deſpotical

or

or limited, whether dependent or independent, whether it is or is not veſted with national ſovereignty.

Sch. 3.—Thoſe who hold that certain forms and qualities of ſtates or governments are of divine inſtitution, preſuppoſe that the will and power of a people is transferred by God.

Sch. 4.—Others, who ſee the abſurdity of ſuch a ſuppoſition, hold that all authority in a ſtate is and ought to be derived from the people.

Sch. 5.—As deſpots ſubſtitute their own will for that of the people, they make uſe of the power of the members of the ſtate to their own deſtruction.

Sch. 6.—Wiſe and good governments, whatever their form may be, will always reſpect the people as the main object of their care, and the ſource of their authority.

Sch. 7.—We meet the objection which has often been made againſt theſe obvious and generous ideas of good government, from miſconſtruction or rather miſapplication of certain paſſages of ſcripture, with an open and candid acknowledgment of the neceſſity of civil government for the general felicity of mankind, as this is the ſum of all that thoſe paſſages intimate. Thus far we hold government to be an ordinance of God, that we believe a good government to be the greateſt temporal bleſſing on earth, and that there is nothing more conformable to his will, or more conducive to the happineſs of mankind, nothing at leaſt more ſuitable to the profeſſion of religion and chriſtianity, than a faithful obedience to all that is lawfully commanded by civil authority, and a patient forbearance with reſpect to thoſe public proceedings which have not that ſalutary tendency to promote, as they ſhould, the felicity of mankind.

The public perſon in a ſtate has a right to direct the will and power for the attainment, preſervation and advancement of the public good; for it is for that purpoſe that the public will and power have been transferred.

Sch.—To pretend a right to rule without, or repugnant to the will of man, is to pretend to a thing that is unlawful in itſelf, and contradictory to the nature of rights in perſons;

ſons; for members of the civil ſociety cannot ceaſe to be men, and as ſuch muſt be ruled in a manner conſiſtent with the nature of a moral agent.

A right to direct the moral actions of others is called *government*.

Civil ſociety, therefore, neceſſarily requires government.

Thoſe who exerciſe civil government are ſaid to be in *authority*, and are ſtiled the *rulers of the ſtate*; the perſons directed by civil government are ſaid to be ſubject to public authority, and are ſtiled the *people*, or the *ruled*.

Since the members of civil ſociety are called citizens, it follows, that theſe are diſtinguiſhed by the rulers and ruled.

Since rulers are veſted with public authority to direct the will and power of the people in all that is neceſſary for the attainment, preſervation and advancement of the public good, it follows, that the ruled are under perfect obligations to do all that is neceſſary to be done for this deſirable end.

From this it immediately follows, that both the public rights of the rulers and the public obligations of the ruled, flow from the very ſcope and nature of civil ſociety; that is to ſay, CIVIL SOCIETY IS EQUAL.

Sch. 1.—We diſtinguiſh equality into abſolute, ſocial and legal.

Sch. 2.—*Abſolute* or *natural equality* finds place between man and man, conſidered in their nature or under the ſame circumſtances. This equality, as we ſhall ſee, is the natural ſtate of nations with reſpect to one another.

Sch. 3.—*Social equality* reſults from the nature of ſocial connections; ſome of which, as already explained, are neceſſary, others again voluntary.

In

In neceſſary ſocieties, the directory or compulſory right is unalterably veſted in one member, as is the caſe with parents and maſters; whilſt perfect obligations, on the other hand, are invariably confined to the other party of the ſociety, as long as the ſocial connection remains founded in nature; as, obedience and ſervices on the part of children and ſervants to their reſpective parents and maſters.

In voluntary ſocieties the conſent of the parties directs who is to command, and who are bound to obey: the nature of them conſequently is, that whilſt rulers have to direct the affairs of the ſociety, it is the duty of the ruled to obey them, according to the ſtipulations of the ſocial compact, and in conformity to the ſcope of the connection.

The equality of the reſpective members of ſocieties is therefore by no means favourable to the idea, that there is no difference between the ruler and the ruled, the father and the child; or that the ruled can be at the ſame time ruler, or the maſter a ſervant: no; ſuch things cannot exiſt at the ſame time, and are not practicable by alternate rotation, as long as the ſocial connection ſubſiſts upon the foundation of nature or pact. Here children and parents, ſervants and maſters, ſoldiers and generals, the ruled and the rulers of ſtates or nations, are equals, becauſe their reſpective obligations and rights are not arbitrary impoſitions, but ſalutary rules, conſiſtent with nature, and neceſſary for the general happineſs of mankind.

Sch. 4.—By *legal equality* we do not underſtand a levelling ſyſtem, depriving men of their juſt rights, but an equal adminiſtration of juſtice, without reſpect to perſon, rank, dignity or calling, and an impartial taxation, according to the property and abilities of citizens.

Sch. 5.—It may, perhaps, not be amiſs to obſerve here, that it is not abſolutely neceſſary for reinſtating citizens into their natural rights of equality, to pull down the thrones and the eſtabliſhed forms of government, and to level all the conditions of citizens: for an overbearing ſpirit takes poſſeſſion of men who have drawn their origin from humble cottages, as well as thoſe who are born in courts and princely palaces. A government unequal in its inſtitution may be equally adminiſtered; whilſt, on the other hand,

hand, the moſt equal may be abuſed, and the powers intruſted by the people into the hands of men of their choice, perverted to the ruin of the ſtate, to the vexation and oppreſſion of its citizens.

Sch. 6.—If fundamental laws have intruſted the reins of government into the hands of perſons who, like the heads of the neceſſary ſocieties, are invariably fixed as the rulers of empires, kingdoms, &c. which is the caſe in hereditary ſtates; let ſuch rulers exerciſe their rights in conſiſtency with the ſcope of the ſociety; let them exact no public obligations, but ſuch as are pointed out by the public good of the ſtate; nay, let no citizen claim immunities to the prejudice of his fellows; let the neceſſary burdens fall upon all citizens, according to their abilities and circumſtances; let the laws be no reſpecters of perſons, &c.

Sch. 7.—Behold the neceſſity and nature of the *reforms* requiſite in many governments now extant! which require, on the part of the rulers and the privileged orders, ſacrifices well worthy the wiſdom, patriotiſm, juſtice, equity and humanity, in which great minds find the higheſt ſatisfaction and the greateſt glory.

Sch. 8.—We cannot diſmiſs this important ſubject without a moſt cordial congratulation, addreſſed to the free and independent citizens and electors of theſe ſtates, founded upon the true principles of civil equality; with our hearty wiſhes, that theſe glorious inſtitutions of civil government may continue to be ſo happily adminiſtered, that the rulers and the ruled may have but one common intereſt at heart, the general good of the *new-born nation*—placing the glory of North-America in the liberty and happineſs of the people.

Public good, the general felicity of individuals, whatever their ſtate or ſituation may be, muſt neceſſarily be of a vaſt extent, as it comprehends all manner of objects which influence human happineſs under every circumſtance of time, chance and place. To find out the mode and manner how the particular and ſocial intereſts of the community may be beſt attained, ſecured and advanced, under all circumſtances, is the ſtudy of the

the ſtateſman, and an object worthy the care and conſideration of a government impreſſed with a deſire of promoting the public good.

Perfection, however, cannot be expected where frail men have an agency. Great and complicated machines cauſe frictions, and carry in themſelves obſtructions to their power. To govern a ſtate is a vaſt undertaking: colliſions and difficulties keep pace with its extent. It will remain a matter of controverſy, both in public conſultations and in the comments which the ruled make on them, whether things are or are not conſiſtent with public good.

In order to facilitate our enquiries with reſpect to this important ſubject, it will be neceſſary to ſelect ſome eſſential ingredients, without which public felicity cannot ſubſiſt, from other things which have but a remote influence, and are not always attainable; as, an extenſive, well-ſituated and populous territory, or an abundance of materials for manufactories and commerce.

We hold, that the public good of civil ſociety eſſentially conſiſts in the enjoyment of *civil liberty*, of *internal* and *external ſecurity*.

Sch. 1.—We here conſider a ſtate in the enjoyment of all the rights of government and ſovereignty; that is to ſay, both in its political and national character.

Sch. 2.—The *political character* of a ſtate comprehends all the rights of government which are neceſſary for the enjoyment of civil liberty and internal ſecurity: theſe rights conſtitute what we ſhall hereafter call the internal ſovereignty of a ſtate.

Sch. 3.—There are ſtates which have veſted the rights of government, with reſpect to external ſecurity, in a confederation, or in a conſolidated general government; whilſt

they enjoy ſeparately and in themſelves all the rights of internal ſovereignty; that is, the rights which are neceſſary for the direction of their internal concerns, their ſeparate intereſts, and their internal ſecurity. Such ſtates are *internally independent;* whilſt the confederation, or the general government, maintains *external* or *national independence.*

Note 1.—Thus the ſeven united provinces of the Netherlands, and the cantons of Switzerland, are free, ſovereign and *internally* independent ſtates: but their national character, their external ſovereignty is in the States General, and in the Helvetic body.

Note 2.—Thus the individual ſtates of the American union are free, ſovereign and naturally independent; whilſt the general government exerciſes the *national ſovereignty* of that union.

Sch. 4.—There are ſtates which are reſtricted with reſpect to internal ſovereignty; that is, ſubject to the controul of another ſtate in the direction of their internal concerns; as, the kingdom of Ireland, the Britiſh and other colonies, where the laws are liable to the controul, or even reverſion of the reſpective courts, &c.

Sch. 5.—But there are alſo ſtates which bear, at the ſame time, both the political and the national character of ſtates; as, Great-Britain, France, Pruſſia, Ruſſia, Poland, Sweden, &c.

Sch. 6.—Thoſe nations which are ſtates bearing the national character, may be conſidered as ſtates and as nations; that is to ſay, both in their political and national character.

Sch. 7.—Since we ſhall treat of the law of nations hereafter, let it be obſerved, that what relates to their political character will be the ſubject of this ſection; whilſt all thoſe things will be reſerved for the ſubſequent part of this treatiſe which refer to the public rights and obligations of nations among one another.

Civil liberty neceſſarily imports a reſtraint upon that natural liberty to which individuals are entitled by nature and that natural relation which they bear to one another; for it would be impoſſible that one common

mon intereſt could ſubſiſt, or the public felicity be obtained, if every man might exerciſe his natural right as he would wiſh, ſince, at this rate, each would purſue his own intereſts, whether they were or were not conſiſtent with the felicity of all. Hence it follows, that for the attainment and preſervation of civil liberty, all thoſe natural rights muſt be ſurrendered which are incompatible with the public good of the whole ſociety.

Citizens, as ſuch, are therefore free, when they enjoy all thoſe natural rights which are not neceſſarily ſurrendered for the attainment, preſervation and advancement of the public good, and when they have in this good their juſt and proportionate ſhare.

Civil liberty is therefore defined to be that ſtate of citizens, in which they enjoy, together with thoſe acquired rights belonging to them, as members of civil ſociety, all thoſe natural rights which are conſiſtent with the public good.

To make a ſurrender, in the hands of government, of ſuch natural rights as are not neceſſary for the promotion of the public good, would be both fooliſh and unjuſt: *fooliſh*, becauſe it would be acting without a good cauſe, without a rational deſign; *unjuſt*, becauſe it would involve a contradiction with the firſt principle of natural law, upon which all civil laws and obligations ultimately depend: for the very end of the inſtitution of civil ſociety is this, that the ſtate of all the members may be thereby rendered as perfect as poſſible.

If, therefore, civil ſocieties are properly inſtituted and well adminiſtered, the citizens will be *gainers*, ſince their acquired civil rights will make more than ſufficient

ſufficient amends for thoſe of their particular natural rights ſurrendered, which, in their hands, could have been of very little uſe, if not altogether uſeleſs. What, for inſtance, avails the natural right of compulſion or defence, when your ſtrength is not adequate or ſuperior to that of your adverſary; or, if he finds aſſociates in committing injuries againſt your perſon or property? In the civil ſtate the ſtrength of all is your protection, your ſhield, and the wiſdom of the whole ſociety your guide. If the public good is promoted, your own felicity is advanced. The public happineſs and ſtrength of the ſtate diffuſes comfort, happineſs, peace and ſecurity over all its members.

Sch.—Civil liberty is then to be well diſtinguiſhed from that which is natural. A ſpirit impatient of rational, ſalutary and neceſſary controul, is not liberty, but wanton licentiouſneſs. Public good, and not the accidental changes of time and circumſtances that may befal the ſtate, is the true ſtandard of civil liberty. The citizen is not leſs free in the day of public danger, when the public good renders his perſonal ſervices, the ſtricteſt diſcipline and ſubordination, nay, even the ſacrifice of his life and property, neceſſary, than he is when ſurrounded by the ſunſhine of peace and external ſecurity, when he may live at eaſe, and dwell under his own vine and fig-tree.

There is indeed nothing in the public concerns of ſtates and nations which requires more care and circumſpection on the part of the rulers as well as on that of the ruled, than to draw and keep within the preciſe line of their reſpective public rights and obligations, ſo that each may faithfully perform their public duties; for every ſtretch of power on the part of government, is an incroachment on the civil liberty of the ruled; and every default, with reſpect to the performance of the civil duties, on the part of the latter,

ter, is an injury committed againſt the government, a wanton abuſe of civil liberty, and an act of licentiouſneſs, ending with the ſubverſion of the ſtate and the deſtruction of public happineſs. There would be cauſe to lament the inceſſant controverſies on this point between the governors of free ſtates and the governed, were it not that jealouſy, diſtruſt and diſcontent ſeem to be naturally interwoven in the conſtitutions of ſtates, and as inſeparable from free governments as debilities and ſickneſſes from the frail conſtitution of our bodies.

Beſides theſe conſiderations, it is *internal ſecurity*, that is to ſay, ſuch proviſions as are neceſſary that there be no cauſe to dread an evil within, that citizens may live peaceably and undiſturbed in their perſons and property, which naturally incroach upon the liberties of the members. In the multifarious occurrences of life, and among ſo many and ſuch various claſhings of private and ſocial intereſts, it far ſurpaſſes the wiſdom and ſagacity of human legiſlators to draw the exact line and to determine with preciſion where laws are to put a reſtraint upon the citizen, and where he may be left to follow his own inclination and to be guided by his own diſcretion. What the ſoul is with reſpect to the exerciſe of our faculties as men, ſuch are laws with reſpect to the body politic in regard to the conduct of citizens.

To theſe muſt be added the various proviſions neceſſary for the *external ſecurity* of the ſtate: citizens muſt be reſtrained from committing any injury againſt other ſtates or their citizens, leſt the public repoſe of the ſtate be thereby endangered. As a ſociety cannot enjoy public felicity if it muſt be in a continual ſtate of

of fear and danger, the citizens muſt learn the uſe of arms, and ſtand prepared to quell an inſurrection and defeat a rebellion, as well as to repel an invaſion of the ſtate. At ſuch times the citizen muſt come under military law—muſt leave all other concerns, ſolely intent on averting the public danger; he ſhould even make a ſacrifice of life, limbs and property at the ſacred ſhrine of his injured country.

Sch. 1.—Behold the various and the neceſſary modifications of civil liberty, and the great importance of public good! We ſet down civil liberty firſt and foremoſt; for what will all laws avail, what is the power, the ſplendor of national reſpectability and grandeur, when the former are the ſhackles, the latter the bane of citizens?

But what is liberty without the controul of ſalutary and neceſſary laws—laws which have public good for their object, and are not the arbitrary edicts of unnatural deſpotiſm?—What will liberty, guarded by the wiſeſt and beſt of laws, finally avail, when there is no care taken for the promotion of public peace and ſecurity?

Sch. 2.—Where theſe three ingredients to the public good are properly ſubordinated, and ſo poiſed that they ſupport one another, the happineſs of a ſtate or nation will ſtand—will be laſting and permanent. To apportion them as times and circumſtances require, is the greateſt art, the moſt glorious object in which men can engage. To govern well, to render ſtates and nations happy, entitles rulers to the auguſt diſtinction of being denominated *Gods on earth.*

Since civil ſociety, whatever the form of its government may be, is by nature equal, and ſince the nature and ſcope of that ſociety, that is to ſay, public happineſs, is the ſtandard by which the extent of the public rights and obligations of all the members muſt be eſtimated; it follows, that civil ſociety naturally reſts on an univerſal fundamental law, whereby both the rulers of

of ſtates and nations, and the reſpective citizens under their authority, ought to regulate their conduct.

This fundamental civil law may be expreſſed in this general propoſition: CITIZENS MUST DIRECT THEIR ACTIONS SO THAT THE PUBLIC GOOD, that is to ſay, THAT CIVIL LIBERTY AND INTERNAL AND EXTERNAL SECURITY MAY BE OBTAINED, PRESERVED AND PROMOTED; AND MUST CAREFULLY AVOID THE CONTRARY.

Sch.—What contradicts this fundamental law is *civilly* unjuſt; laws and ordinances contrary to it are public grievances, &c.

CHAPTER II.

Of the origin of civil ſociety.

THE origin of civil ſociety, conſidered as a matter of fact, has given riſe to a variety of opinions: but as opinions cannot affect the nature of things, we may lay aſide an unprofitable diſcuſſion of them, and proceed immediately to the principal point of the controverſy, to wit, the enquiry, Whether philoſophical deductions, like thoſe of the preceding chapter, reſt upon *fiction*, or are founded in nature, are ſomething real and coeval with the multiplication of the human race?—We think reaſon is on the ſide of thoſe who aſſert the latter; for, if the relation of rulers and the ruled is not natural, how can we account for the general reception and eſtabliſhment

eſtabliſhment of one kind of government or another, even among the moſt barbarous nations of the earth? Have not the freeſt communities among the Indians their leaders? Have they not their head men, who tranſact public buſineſs in the name of their tribes?

Men are prone to counteract both perfect and imperfect obligations: in conſequence of this barbarous diſpoſition, life, as well as the undiſturbed enjoyment of the things neceſſary for its preſervation, muſt have become extremely inſecure and precarious, as ſoon as the human race were multiplied to a conſiderable extent. Neceſſity, therefore, muſt have ſoon ſuggeſted the greater conveniencies and ſecurity which civil ſocieties and governments afford.

Where is the reaſon, we may aſk, that men, in the early ages of the world, have been ſo ſtrangely ſupine with reſpect to their true intereſts, and ſo much more inattentive to their moſt urgent neceſſities than their fellow creatures in ſubſequent days? Experience evinces, that the apprehenſion of an evil places us in a ſtate of inſecurity, and renders our ſituation unhappy. Is it not the nature of fear to excite men to exert themſelves in acquiring repoſe, peace and ſafety?

Aſſociations have moſt undoubtedly derived their origin from the fear of danger. Natural ſocieties, the connubial and parental, have led the way to the herile. The deſire of peace and happineſs has cemented families under the domeſtic ſtate; of which the civil is, as it were, the counterpart, with this difference, that the latter is more extenſive, and forms the ſhield under which not only individuals, but families and communities find their general ſecurity.

We

We ſhould not feel that degree of anxiety for oppoſing thoſe authors who aſſign, as the firſt moving cauſes for civil ſocieties, the luſt of power and dominion, or ſucceſsful acts of violence and rapine, the eſſential traits of which the experience of ages has not been able fully to take away even among the poliſhed nations of the earth,—were it not that it would ſeem to leave them the boaſt of victory, as it were, over the ſuperior power of reaſon and ſound morality: for, decrying the principles flowing from the nature of God and men, from the nature of things and real happineſs, as a fiction, they ſap the very foundation of political morality, nay, of human happineſs. They place the origin of civil ſociety in lawleſs and unnatural acts of violence and injuſtice, and thence draw the inconcluſive inference, that the rights and obligations of the members of civil ſociety cannot be reduced to ſtable and unalterable principles of natural law.

Hiſtory, it is true, furniſhes us with frequent inſtances of ſtates which have had their origin in lawleſs uſurpation: but theſe inſtances are ſo far from proving the inſufficiency of rational principles for explaining the true nature of civil ſocieties, that they exhibit powerful arguments for eſtabliſhing both the right and power of reaſon in the public concerns of ſtates, as there are innumerable examples of governments founded in injuſtice and ſupported by violence, which have either vaniſhed or undergone a ſeries of changes and revolutions, vibrating, as it were, from one extreme to the other, until they have been brought under modifications as near to the principles of nature as the circumſtances of the times, the improvements and the genius of the people, or the particular ſituation of ſtates, would admit.

Recent inſtances of this kind are exhibited by the general government of the United States, and of the particular ſtates which compoſe it—inſtances which ſufficiently ſhew that it is practicable to eſtabliſh governments upon the baſis of natural juſtice.

The ſtruggles of the French nation have been conſidered in the ridiculous light of a viſionary dream; but in ſpite of all oppoſition, they bid fair to afford us an eſſential proof, that there is ſome reality in governments founded on the principles of nature.

CHAPTER III.

Of the different laws, rights and obligations which take place in civil ſociety, and the different capacities and characters of the citizens.

ALL the rights and obligations of citizens have either reference to civil government, or are confined to the concerns which citizens have among one another. In the former caſe the *rights* and *obligations* of citizens are called *public*; in the latter, *private*.

Perſons who are veſted with the right of civil government are *public*; thoſe who are under the authority of government are *private perſons*.

When private perſons are conſidered in their relation to government, that is to ſay, with reſpect to their public rights and obligations, they are contemplated in their *public character*; but when reference is had to the relation which they bear to their fellow citizens, or when

when their private concerns come into contemplation, they ſuſtain a *private character*.

Public perſons may have private rights and obligations, and of conſequence, ſuſtain a private character; for inſtance, the preſident of the union, the ſeveral governors of the United States, &c. have private property, hold real and perſonal eſtates.

Thoſe *laws* of a ſtate or nation are *public*, which have for their object the public rights and obligations of the rulers as well as of the ruled; but the *municipal laws* are confined to the cognizance of the private concerns of citizens among themſelves.

In ſhort, all *things* in a ſtate are ſtiled *public*, which have reference to the government thereof: there are ſuch things as *public property*, public concerns, public employ, public ſtations, affairs, offices, ſervices, &c.

Public perſons, or citizens engaged in public ſervice, becauſe they alſo ſuſtain a private character, are bound to regulate their conduct in perfect conformity to the laws of the land, as far as that obedience does not claſh with the weightier concerns of government: for nothing except a higher obligation can excuſe the citizen from the performance of the duties he owes to his fellow citizens as men and as citizens.

Hence it appears perfectly conſiſtent with the law of nature, that perſons whoſe ſervices are eſſentially neceſſary for the preſervation of the public welfare, ſhould not be amenable to the municipal law as long as that neceſſity exiſts: as, the general, the officer, the ſoldier, &c. on an expedition, ſhould not be liable to arreſt for debt.

Public perſons, at the helm of government, are at all

all times engaged in public affairs ; they ought, therefore, to be exempted from the power of the municipal laws, as long as their adminiſtration laſts. This privilege ought likewiſe to be extended to the members of the legiſlature, during its ſeſſion, and a reaſonable time before as well as after it.

A reaſonable expectation may be formed, that perſons raiſed to an exalted ſtation will not fail to be as faithful in their private as they ought to be in their public characters.

Thoſe who abuſe ſuch privileges to the prejudice of their fellow citizens, carry the mark of public oppreſſors of the worſt kind; becauſe, under the ſhield of law, they ſacrilegiouſly defeat its ſalutary ends.

Sch.—It is an additional argument to prove the propriety of privileging public perſons, that it is poſſible for deſigning men to throw an obſtacle in the way of public proceedings, by vexatious and unfounded actions commenced againſt public perſons.

CHAPTER IV.

Of the invariable ſcope of all public and municipal laws in a ſtate, the eſſential public rights, and the correlative public obligations between the government and the people.

SINCE the fundamental civil law requires citizens to direct their actions ſo that the public good of the ſtate or nation may be obtained, preſerved and promoted, it follows, that all public laws of a ſtate, as well as the municipal, muſt invariably have this deſirable end for their object, and that all regulations in a ſtate which have

have a contrary tendency, are improper, grievous and unjuſt.

Hence it follows, that government cannot have any public rights which are inconſiſtent with the liberty of the people. The people, therefore, owe no obligation to ſuch mandates as, in themſelves, have a manifeſt tendency to deſtroy civil liberty; for ſuch mandates flow not from the public right, but are abuſes of the power of government.

Sch.—We ſay *mandates in themſelves*, becauſe it is poſſible that other and higher obligations bind citizens to forbear. *Vide* p. 32—48, &c.

It is for the enjoyment of civil liberty that government is neceſſary and civil ſociety inſtituted: civil liberty is therefore the right paramount of the citizen, to which governments owe all their powers, their exiſtence and authority, and on this account are bound, under a public and moſt ſacred obligation, to reſpect and protect that right.

Sch. 1.—Civil liberty is that ſacred public depoſit which is not to be touched with an unhallowed hand: it is the birthright of the citizen: he who is deprived thereof is not a citizen, but a ſlave. This great and indefeaſible right implies the rights to the neceſſary means for preſerving it againſt encroachments and dangers. A free citizen has the right to have arms, and is entitled to a free communication of his thoughts: hence the liberty of the preſs, and hence the right to aſſemble with fellow citizens in a peaceable manner, for conſultation with reſpect to the concerns of their country.

Sch. 2.—How careful ought citizens to be to preſerve theſe rights! how ſolicitous not to abuſe them, ſince abuſes whether they proceed from or take their riſe among citizens, provoke meaſures of the moſt dreadful effects and the moſt fatal conſequences!

It is a public obligation in citizens to learn to know their

their rights: it is from ignorance that the people in many countries have loſt their liberty; and it is from that cauſe why with ſome it has only exiſtence in imagination and prejudice, whilſt ſuch as enjoy it ſet no value thereon, or become guilty of abuſing it to the moſt outrageous purpoſes.

Liberty indeed comprehends a vaſt deal; but the liberty of man is directed by the laws of nature and of revelation; that of the citizen becomes modified and determined by additional reſtraints, neceſſary for the internal and external ſecurity of the ſtate. To perpetrate injuries againſt fellow citizens, to invade the juſt rights of the rulers or the ruled, is not liberty, but the height of anarchy and licentiouſneſs, the greateſt evil that can befal civil ſociety. The liberty of the citizen is reſtrained by neceſſary and directed by ſalutary laws.

It is, therefore, a public right of government to enact ſalutary laws, which are neceſſary for the internal order, peace and ſecurity of the ſtate; and citizens are under the moſt ſacred public obligations to obey them.

Sch.—Behold a ſtriking criterion of a good government and of good and free citizens!

There are likewiſe public rights, veſting government with a power to make laws directing the conduct of citizens, that they do not injure other civil ſocieties by any acts which are repugnant to the perfect rights of their members, whether they be rulers or the ruled, leſt the external ſecurity of the ſtate becomes involved in the iſſue of ſuch a conduct.

Beſides ſuch neceſſary regulations and laws, obedience to which is an indiſputable public obligation on the

the part of the people, the government has the public right to order that the citizens be prepared for public defence and war, againſt an intended or actual aggreſſion; likewiſe, to regulate and order the mode of conducting the one or the other, to aſſent to terms of accommodation or pacification, &c.

The citizens are bound to ſubmit to ſuch regulations. To ſupport the ſtate is the greateſt privilege, and the principal trait in the character of a free citizen, ſince that ſupport is the ſureſt mean to preſerve the liberty of our country.

Sch. 1.—Almoſt all nations have loſt their liberty, becauſe they have intruſted their public right of defence to foreigners, or to a mercenary ſoldiery.

Sch. 2.—Patriotic citizens will not ſuffer, in learning the military art, that ſtrange indolence or want of diſcretion, on their part, ſhould give a handle to thoſe who are fond of undervaluing the character of a militia-ſoldier.

Sch. 3.—Whilſt, with heart-felt gratitude, we recollect the patriotic and heroic perſeverance of the continental army during our glorious conteſt with Great-Britain, it would be criminal to forget the valour and aſſiduity of our militia: America has exhibited inſtances that a citizen ſoldier is invincible—to recount the noble exploits of individuals would certainly be worthy the pen of hiſtorians.

Sch. 4.—Let poſterity hear, that at the time of Herkemer's battle, which happened the 6th of Auguſt, 1777, the valour of one hundred and fifty militia-men, commanding themſelves, becauſe their leaders had fallen, aſſiſted by the intrepid and moſt ſeaſonable ſortie of a Colonel Willett, maintained the field againſt the mixt hoſt of regulars, refugees and Indians, exceeding four times their number. Let it ſtand recorded among other patriotic deeds of that little army of militia, that a Jacob Gardiner, with a few of his men, vanquiſhed a whole plattoon, killed the Captain thereof, after he had kept him for a long time by his collar, as a ſhield againſt the balls and the bayonets of the whole plattoon. This brave

militia

militia Captain is ſtill alive, and was cured of thirteen wounds. Neither muſt it be forgotten, that William Wills and John Harper, who at that time of general diſtreſs on our weſtern frontiers, when two hundred royaliſts and Indians had advanced into the heart of Schohary, when treachery, aſſiſted by the panic with which the inhabitants had been ſtruck, had almoſt accompliſhed a total defection among the inhabitants, with forty men, collected in a ſtrong brick-houſe, braved the enemy, hindred the defection from taking the intended effect, and afforded time for ſuccour, by which the whole deſign of the enemy was defeated, and a valuable part of the frontier preſerved.

It is a certain fact, that, after the above-mentioned bloody day, when General Burgoyne's proclamation was ſent amongſt the intimidated inhabitants of the then county of Tryon, by a flag of truce, compoſed of a mixed group of run-aways from ſaid county, and of a number of Indians yet reeking with the blood of their benefactors and neighbours—only a few men defeated the treacherous ſcheme, and prevented the defection of that county, which continued during the war one of our ſtrongeſt barriers againſt the weſtern invaſions of the enemy. A thouſand inſtances might be given of the valour of militia-ſoldiers during that conteſt, which might be adduced in refutation of the reaſonings lately communicated by the public papers, as having taken place in a great public aſſembly. Certainly ſuch men do not know our militia, or have forgot their fellow citizens.

Since, then, civil liberty is, as it were, the reſult of neceſſary and wiſe modifications of all the individual and other ſocial rights of the citizens, by the public obligations, both of civil rulers and the ruled, for the preſervation of internal and external ſecurity; it follows, that government ought not to put the people under greater reſtraint than is neceſſary for, nor ſhould the latter pretend to more freedom than is conſiſtent with, the attainment of theſe deſirable objects.

On the contrary, it eſſentially intereſts both the public

public and the private perſons in a ſtate, that they join their beſt efforts for conducting themſelves ſo, that no occaſion may be furniſhed to any perſons, whether citizens or ſtrangers, why they ſhould entertain any deſigns, or enter into any machinations prejudicial to public peace and tranquillity.

The tranquillity of a ſtate or nation may be ſafe from evil deſigns againſt its internal ſecurity, when perſons either feel no inclination, or have it not in their power to diſturb the ſtate: the former may be reaſonably expected, when there is either no cauſe for, or when there are ſtronger motives againſt the raiſing a diſturbance.

There is certainly no cauſe for dreading dangerous innovations when the love of virtue and good order prevails, when the citizens are ſenſible of their public duties, as well as thoſe which they owe as individuals to God, to themſelves, and to their fellow creatures, more eſpecially to their fellow citizens,—when citizens are not only contented with their preſent condition, but alſo when there is not any juſtifying cauſe for diſcontent. In either of theſe caſes, thoſe who would be at all events diſpoſed to cauſe diſturbances would be left without even pretences under which diſcontent and a wanton breach of order might find plauſiblity or excuſe.

Should there ſtill be among citizens ſuch ignoble minds as that conſiderations of public virtue, of patriotiſm and humanity do not operate, it will be neceſſary that they be deterred from evil by laws, ſanctioned with ignonimous and public puniſhment. Fear, it muſt be confeſſed, is not the moſt laudable, but it is, notwithſtanding, a powerful principle, nay, perhaps the

only one left againſt brutal men, whoſe minds have become too callous and obdurate to yield to the tender emotions of religion, patriotiſm and humanity.

It is therefore a public obligation in government, for eſtabliſhing internal and external ſecurity upon the firmeſt baſis, that they make uſe of their authority to order all things in a ſtate in ſuch a manner as to become means for exciting the minds of the people to virtue and patriotiſm. Such a conduct on the part of the rulers of ſtates and nations cannot fail to impreſs them with the higheſt eſteem for public virtue, and a due reſpect to thoſe who exerciſe it. Citizens who are well informed and ſenſible of their public obligations, will view diſturbances of the public tranquillity in their true light, as evils of the moſt heinous nature, and the character of the authors and abettors of them as infamous and deteſtable.

It is a public obligation on the part of government, to order that each claſs of citizens be uſefully employed, and thereby enabled to live comfortably.

Government is under public obligation to uſe all poſſible care, prudence, moderation and circumſpection, that the private good of individuals, as well as the common intereſts of the leſs ſocieties within the limits and juriſdiction of the ſtate, be properly ſubordinated to the public good of civil ſociety, from which they derive their protection.

It is not only a public obligation of citizens in general, but alſo of government in particular, that they be extremely careful not to injure other ſtates, leſt the external ſecurity of the ſtate be thereby endangered.

Since it is a moſt important public and national obligation

gation to place the ſtate on the ſureſt foundation againſt foreign aggreſſion and internal inſurrection, the government is bound to order all things ſo that population, agriculture, commerce, arts and ſciences may be encouraged and cultivated—that the citizens may be well acquainted with and exerciſed in all that pertains to the means of public defence.

To crown all, the public rights and obligations, which form the bond of political and national union between the rulers of ſtates and the people, ſhould be ſecured and determined by wiſe and ſalutary laws, founded on the eternal principles of natural juſtice and equity; and theſe laws ought to be adminiſtered in conformity to the duties which men owe to God, to themſelves, and to their fellow creatures.

Let it be remembered, that, as civil ſociety is equal, the government thereof ought to be a government not of men, but of laws;—that to be obedient and faithful to ſuch a government is the higheſt degree of liberty of which man is capable with reſpect to public life.

CHAPTER V.

Of the ſupreme power or ſovereignty in a ſtate, and the principal rights of ſovereignty.

THE ſource of all public power in a ſtate is the people; all authority to order and direct the actions of the citizens for the attainment, preſervation and advancement of the public felicity, originates in the tranſfer made by them. The ſupreme power of the ſtate

is

is therefore eſſentially inherent in the people; but the exerciſe thereof is transferred to the moral, or public perſon of the ſtate, whether a king, a ſenate, or a government that repreſents the people.

Thoſe rights which immediately flow from the right of civil government, conſtitute what is called the *ſovereignty* of a ſtate or nation: the public perſon veſted with the exerciſe of ſuch rights is ſtiled the *ſovereign*.

Hence it follows, that, though the ſovereignty of a ſtate or nation is originally and eſſentially in the people, ſtill, when civil government is once eſtabliſhed, the exerciſe of it is the right of the public rulers, as long as that eſtabliſhment ſubſiſts.

The eſtabliſhment of a government reſts upon a fundamental law, known under the title of the conſtitution.

The ſovereigns of ſtates and nations are ſubject to the conſtitutions of them, whether they actually exiſt or are only ſuppoſed to exiſt. Such original compacts between the rulers and the people remain the unalterable rule for the adminiſtration of government.

To alter or to change the conſtitution of a ſtate or nation is, as we ſhall ſee, the right of the people.

Sch.—We have already obſerved, that thoſe ſtates whoſe governments are not veſted with all the neceſſary powers of ſovereignty, are *dependent*.

We diſtinguiſh ſovereignty into *internal* and *external*: the former might be ſtiled *political*; the latter *national*.

Internal or political ſovereignty comprehends all the rights neceſſary for the internal concerns of a ſtate.

National ſovereignty has reference to other ſtates and independent civil ſocieties.

Sch.

Sch. 1.—Since national ſovereignty conſtitutes the character of a nation, it will be the proper ſubject of the law of nations to inveſtigate the nature and extent of thoſe ſpecific rights which conſtitute it.

Sch. 2.—But the internal concerns of nations belong to their political character, which is the ſubject of politics; though authors who have treated of the law of nations, have likewiſe taken notice of them, becauſe a treatiſe on that laſt mentioned ſubject cannot be underſtood without juſt ideas of the political character of nations.

Sch. 3.—Let it therefore be obſerved, that what has been hitherto explained, together with all that will be ſaid in the ſequel on the ſubject of the political concerns of ſtates, applies fully to nations.

Sch. 4.—Thoſe things, on the contrary, which have particular reference to external ſecurity againſt the machinations and invaſions of other ſtates, belong ſolely to the national character of ſtates.

Since government is inſtituted for the attainment, preſervation and advancement of the felicity of the ſtate or nation, it follows, on the one hand, that the ſovereign is not veſted with any rights of ſovereignty which are contrary to public good; and, on the other, that he is naturally and neceſſarily poſſeſſed of all thoſe without which that deſirable end cannot be obtained, ſecured or promoted.

Sch.—From theſe conſiderations a judgment may be formed whether conſtitutions ſtand in need of emendations or additions, or whether they deſerve the character of ſalutary fundamental laws.

Perſons within the borders and juriſdiction of a ſtate are either citizens or ſtrangers: with reſpect to the former, the rights of the ſovereign are both affirmative and negative; ſince citizens are bound not only to omit all that is contrary to public good, but muſt likewiſe perform thoſe civil duties which are neceſſary for the preſervation of the internal and external peace of the ſtate,

ſtate, and are eſſential to its public felicity: but ſtrangers not having an intereſt in the public good of the ſtate, are only bound by negative duties; that is to ſay, the ſovereign can only interdict ſuch actions as are repugnant to the public good of the ſtate. This right the ſovereign poſſeſſes from the neceſſity of the caſe, becauſe otherwiſe he could not exerciſe the rights of ſovereignty neceſſary for the preſervation of the public good.

Of the various rights of ſovereignty, with reſpect to the citizens of the ſtate, the following may be conſidered as the principal, becauſe they are eſſentially neceſſary for promoting the public good of the ſociety.

1. The right to make and promulge laws for regulating the conduct of citizens.

2. The right to paſs imputation upon the conduct of the citizens, according to the direction of thoſe laws; to determine rewards and puniſhments, and to put thoſe determinations into execution.

3. The right of ſuſpending, altering or repealing municipal laws; and of adapting and modifying natural laws to the exigencies of the ſtate.

4. The right to prohibit all things, and all conduct of individuals and ſocieties, which are contradictory to the internal or external peace of the community.

5. The right to erect courts of juſtice for the trial and puniſhment of crimes committed within the limits and juriſdiction of the ſtate.

6. The right of building fortifications and harbours within the territory of the ſtate, to regulate roads, to exclude ſtrangers from acceſs to or from paſſing through the ſtate, or to grant and modify ſuch privileges.

7. The

7. The rights to make war and peace; to order the mode in which the former is to be conducted, and to aſſent to the terms upon which the latter may be concluded.

8. The right to prohibit all things which have a tendency to produce evil habits and pernicious conſequences.

9. The right to ſanction all that may incite the citizens to virtue, and may have a ſalutary effect upon the manners of the people.

10. The right to order things ſo that the citizens may be uſefully employed and enabled to live comfortably.

11. The right to order that the citizens may learn and be exerciſed in the military art.

12. The right to prohibit whatever is unfriendly to population.

Upon the whole, the right of ſovereignty extends to all that is neceſſary as a mean for promoting and preſerving public felicity.

The aſſuming rights of ſovereignty, which are not abſolutely neceſſary for public good, or, which ultimately amounts to the ſame thing, the extending the lawful rights of ſupreme controul farther than is neceſſary for that end, lead to an abridgement of the civil liberty of the citizens, and muſt be ranked among thoſe claims which are not founded in natural law.

Rights of ſovereignty which are incompatible with public good, though warranted by certain conſtitutions of ſtates, are in the forum of nature nothing leſs than high-handed uſurpation.

CHAPTER VI.

Of the reſources of a ſtate.

BY the *reſources* of a ſtate are generally underſtood all the means which the government may make uſe of for attaining, advancing, and particularly for preſerving the public felicity.

Since there are innumerable things in a ſtate which may ſerve for theſe purpoſes, it follows, that its reſources are not only multifarious, but alſo, that, by a proper adminiſtration of public affairs, they may be vaſtly increaſed, as, by a contrary conduct, they may be neglected and diminiſhed.

All the reſources of a ſtate are reducible to theſe two: the *ſtrength* of the citizens and their *wealth*.

Thoſe who place public ſtrength in a vaſt extent of territory, forget that a country is ſtrong at the rate of its populouſneſs; that a compact, thickly ſettled territory can perform what may be expected in vain from an equal number of inhabitants ſpread over a territory too extenſive for the public force to be concentrated and brought to act with united efforts. It is union, public virtue and patriotiſm that ſupply numbers: it is the hardineſs, courage, diſcipline, induſtry, œconomy, ſobriety,—the progreſs in arts and ſciences, the united zeal to improve the advantages which a country affords into means of private and public happineſs, which render a comparatively ſmall ſtate ſtrong and vigorous. Indolence and corruption of manners, on the contrary, weaken a people in proportion to numbers: the more numerous,

numerous, the more extenſive will be the contagion, the more incurable the diſeaſe.

That country is certainly deficient in the moſt powerful reſources, where luxury ſupplies the place of ſobriety and induſtry, and where numbers muſt ſtand in the room of wiſdom, courage, fortitude, patriotiſm and perſeverance.

The wealth of a ſtate, like the ſtrength of its citizens, is a comparative relation. Œconomy and induſtry may compenſate the want of rich mines, of a rich and fertile ſoil, and of advantageous ſea-ports.

That ſtate is wealthy, where the citizens have the neceſſaries requiſite for the ſubſiſtence of themſelves and their families, and for the means of defending the ſtate.

Money, particularly that of the paper kind, is the repreſentative of wealth; but agriculture, manufactures and commerce are the real wealth of a ſtate, and inexhauſtible reſources, which will not leave government at a nonplus in the day of public danger.

A ſtate, therefore, where the laws are properly adminiſtered, where liberty and virtue reign, where agriculture, arts and commerce are encouraged, will not be defective in men who are ready to ſtand forth in defence of the ſtate from a true principle of patriotiſm, and cannot remain deſtitute of thoſe means by which they are enabled to ſupport and maintain that defence.

Though countries differ in natural advantages, it is the induſtry and genius of the people that can ſupply the deficiencies: there is conſequently cauſe why a ſtate ſhould contentedly purſue its own felicity, and baniſh the idea of conqueſt.

CHAPTER VII.

Of revenue and the adminiſtration thereof.

SINCE government cannot be adminiſtered without expence, it is neceſſary that a portion of the produce of the wealth of a ſtate be allowed for the purpoſes of government; for government is inſtituted for public good, and the will and power of the members of a ſtate are transferred to government for the promotion and preſervation of that great end. A right to the end implies the right to make uſe of the means abſolutely neceſſary for that end.

A portion of the produce of the public wealth that may be applied for the purpoſes of government, is comprehended under the term *revenue*.

The public good of a ſtate therefore requires a revenue.

Since revenues are drawn from the wealth of a ſtate, it follows, that either ſome public property, for inſtance, demeſne lands, or that a certain proportion of the private property of the citizens, or of goods imported from abroad, be allotted for the purpoſes of government.

Hence it follows, that the revenues of a ſtate proceed either from public property, or from private property made public, that is to ſay, allotted to the purpoſes of government.

It is a right of ſovereignty to diſpoſe of the public revenue; for it is public property belonging to the whole

whole ſtate; and whatever belongs to the whole ſtate is under the direction of government.

The diſpoſal of the revenue is not left optional to the ſovereign of a ſtate, but muſt be in perfect conſiſtency with the public good, otherwiſe a ſtate is injured by its government.

It is one of the moſt momentous rights of ſovereignty, connected with the right of government, to order, in caſe public property be not ſufficient for the exigencies of the ſtate, that a certain quantum of the produce of the property of private citizens, or of the proceeds from imported goods, be appropriated to the purpoſes of government; that is to ſay, the ſovereign has a right to raiſe a revenue; for government is under perfect obligation to do all that is neceſſary for the promotion and preſervation of the public good: but obligation to ends implies the right to the neceſſary means.

Sch. 1.—The exerciſe of this important right is generally attended with many and great difficulties, as it affects the private property, and conſequently the perſonal liberty of the citizen.

Sch. 2.—It ought to be conſidered, that nothing which is not abſolutely neceſſary for public good can juſtify government in interfering with the private intereſts of citizens.

Sch. 3.—That great care and circumſpection is neceſſary that the impoſitions ſhould be as light as poſſible: they muſt not, therefore, be laid on the neceſſaries of life, or on the manufactories of the citizens, if any other reſource is left.

Sch. 4.—That they be proportionate to the abilities of the citizens; that is to ſay, equally aſſeſſed according to the reſpective circumſtances of the citizens.

Sch. 5.—That they be laid on the luxuries of life, particularly on ſuch articles as are imported from abroad.

Sch. 6.—That the collection be the leaſt burthenſome and the leaſt expenſive poſſible.

Sch.

Sch. 7.—Since, from the principles of nature, it cannot in any wiſe be made out that a public debt is a national bleſſing, it is a high and important duty not to anticipate the public revenue, except in caſes of abſolute and extreme neceſſity, and then to reduce it as faſt as is conſiſtent with public good.

The right to apply public property to the purpoſes of government is called the *adminiſtration of the revenue.*

This right being in its nature a right of ſovereignty, it follows, that the ſovereign is under perfect obligation to direct the adminiſtration of the revenue to the advancement and preſervation of the public good; for, as public property is only to be uſed for thoſe purpoſes, ſo it is for public felicity only that private property may be made public.

The right of adminiſtration implies the right of eſtabliſhing the neceſſary perſons and departments, both with reſpect to the collection and the expenditure of the public revenue.

By *taxation* is underſtood the determining the proportion of revenue ariſing from the private property of citizens, or from the proceeds of occupations, importation and conſumption of goods, &c.

The proceeds ariſing from taxation are taxes, cuſtoms and excife.

Taxes laid upon real or perſonal eſtate are called *real* or *perſonal.*

Taxes laid upon lucrative occupations have obtained the name of *licences.*

Taxes laid upon manufactories or articles of conſumption, are comprehended under the term *exciſe.*

Taxes laid upon goods imported or exported are ſtiled *duties.*

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The ſovereign poſſeſſes the right of uſe and uſufruct in the property of citizens as far as the neceſſities of the ſtate require, but no further.

In a ſtate of neceſſity, the ſovereign may diſpoſe of the property of a citizen, provided he gives an equivalent; for inſtance, when a certain ſpot of land is required for a fortification, for a harbour, for public roads, &c.

Since the ſovereign has a right to order that the citizens may live comfortably, learn the arts and ſciences, &c. it follows, that it is a right of ſovereignty to order orphan-houſes, ſchools, colleges, and other inſtitutions to be ſet on foot, and to draw for theſe purpoſes the neceſſary revenue from the reſources of the ſtate.

That ſtate wherein a perſon is under perfect obligation to execute buſineſs of a public nature, is called an *office*; and the perſons who are under that obligation are *public officers*.

As ſuch offices are neceſſary for public good, it follows, that it is a right of ſovereignty to inſtitute the offices neceſſary for the adminiſtration of government, and to appoint proper perſons to fill ſuch offices.

If the ſovereign arrogates to himſelf other rights than ſuch as flow from the nature of the ſovereignty, he becomes guilty of injuring the ſtate.

Sch.—In different ſtates the eſtabliſhment of the fundamental laws of government may differ; the ſovereign of one ſtate may conſequently lawfully do what with that of another would be a public injury.

When the ſovereign of a ſtate, by abuſing the rights of ſovereignty, endeavours to oppreſs the ſtate, he degenerates into a *tyrant*.

Tyranny is therefore not every fault in government, not

not every defect in rectitude of which rulers are guilty, but an intentional abuſe of power.

From the oppreſſion of a few citizens that of the whole ſtate cannot be inferred. All the citizens of a ſtate, however, are deeply intereſted in the ſufferings and oppreſſion of their fellow citizens, and juſtifiable in taking prudent and lawful meaſures for bringing about a reform and preventing a repetition.

The granting privileges cauſes inequalities between citizens, and ſhould never be reſorted to but in caſes where the public good is not attainable without it: for inſtance; a company may very well have the privilege of a canal, if there was no other mean to have it cut but by their contribution.

Sch.—Privileges ſhould be but of ſhort duration.

CHAPTER VIII.

Of the public obligations and rights of citizens in regard to their ſovereign.

THE obligations of foreigners and ſtrangers are of the negative kind, and are binding upon them as ſoon as they arrive and as long as they live within the territory and juriſdiction of the ſtate. The ſovereign has the right to forbid all that is in any wiſe repugnant to the public good; and ſtrangers are perfectly bound to regulate their conduct ſo that it be not contradictory to the laws and uſages of the land.

But citizens are under the moſt perfect obligations not only to abſtain from all that is contrary to the laws of

of the land or repugnant to public good, but alſo to perform all things which the ſovereign directs in conſiſtency with that good.

As it would be endleſs to particularize all the public obligations of citizens, and as it is impoſſible to determine every particular inſtance when a citizen is or is not ſtrictly bound to comply with all the regulations and orders which the ſovereign of the ſtate has made the general rule for the conduct of citizens, let it be obſerved, that thoſe public obligations of citizens are in every reſpect correlate to the juſt exerciſe of the rights of ſovereignty, and that they deſerve the utmoſt care and attention of every citizen, ſince the happineſs of ſociety depends as much on a faithful obedience to the laws as on a juſt adminiſtration of them.

There are, however, two important duties which deſerve to be particularly noticed, becauſe upon the one the internal peace, and on the other the external ſecurity of the ſtate is in a peculiar manner depending. The firſt of theſe is this: Citizens muſt exerciſe their natural rights of defence, war and compulſion, by the authority of the ſovereign, and in the mode preſcribed by him. The laws of the land forbid perſonal, but grant ample public relief for all that might be done wrong or injuriouſly.

It is on this account that no action which has influence on public good ſhould be left indifferent, that the laws of the land ſhould compaſs all the individual and ſocial concerns of the citizens. There is no danger that natural liberty be curtailed, when ſalutary, intelligible and beneficent laws and regulations direct the conduct which citizens ſhould obſerve to one another,

—when

—when family governments are well directed, and domeſtic peace and happineſs promoted and preſerved.

Ignorance is ſaid to be neceſſary to keep citizens under ſubjection; but we venture to ſay, that information will be more beneficial to all the purpoſes of a happy ſociety: let the citizens know that their obedience to law is the mean of their internal peace and happineſs. When a people is bleſt with a happy conſtitution, and governed by wiſe and ſalutary laws, nothing is wanting but information and experience to convince them of their happy ſituation, and to render them a virtuous, faithful, peaceable and patriotic people.

The ſecond public obligation of citizens is, that they faithfully ſupport, and courageouſly defend the ſtate. Let citizens conſider that civil liberty is not to be ſported with, that it is dangerous to truſt it in the hands of mercenaries, and that an armed citizen is invincible.

Rebellion is that ſtate where citizens violently reſiſt the laws and authority of government, and maliciouſly endeavour to diſturb the peace and ſecurity of the ſtate, and meditate the overthrow of its eſtabliſhed government.

Machinations of that kind are *treaſon*, *ſedition* or *inſurrection*, as individuals or aſſociations are involved in deſigns and actions which have a tendency to raiſe a rebellion.

Sch. 1.—It is poſſible that the government may rebel againſt the people, by endeavouring to overthrow the conſtitution of the ſtate.

Sch. 2.—However, in the legal ſenſe of the term, rebellion is violent reſiſtance to the meaſures of government, whether they be right or wrong: the conſequence is, that men of the moſt excellent character, of the greateſt public

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lic virtue and undaunted patriotiſm, have been branded with the name of rebels, and have ſuffered capital puniſhment: we muſt therefore make a wide difference between crimes in the ſight of unjuſt laws, and in that of ſuch as are juſt and conſiſtent with the eternal principles of natural juſtice.

As citizens are under the moſt ſacred obligations to reſpect government, and to ſubmit to all ſalutary laws and regulations iſſuing from the higheſt authority of the ſtate and from its ſubordinate officers; ſo they have great and indefeaſable rights, which are the palladium of their civil liberty. Theſe are,

The right to make remonſtrances:

The right to meet in a peaceable manner for the purpoſe of conſultation:

The right to ſtate their grievances to the government, and to make them known to their fellow citizens:

The right to expect redreſs, if their grievances are real:

The right to expect a prompt and equal adminiſtration of juſtice:

The right to claim and to enjoy the protection of their perſons, property, rights and character:

The right to make appeals:

The right to enjoy all the rights and franchiſes to which citizens are entitled by the conſtitution of the ſtate.

Sch.—Moſt of theſe rights are infringed if the preſs is not left free.

If the ſtate is invaded by a foreign or domeſtic enemy, every good citizen ought moſt cordially to aſſiſt in relieving government and the ſtate from imminent dan-

ger. Every one ſhould offer his life and fortune for the preſervation of the ſtate, its rights and liberties. But it is very difficult to determine what line of conduct citizens have to purſue, if the ſovereign of a ſtate ſhould invade and perſiſt in wicked machinations to deſtroy their liberty.

Let it be obſerved, that a matter of ſuch magnitude and importance, teeming with conſequences dreadful in their nature and effects, involving the fate of the preſent generation as well as that of thoſe who are yet unborn, ought to be coolly and thoroughly inveſtigated; ſeaſonable, proper and reſpectful repreſentations ſhould be made, and all lawful means purſued in order to bring about a reformation in government, before any ſtep be taken that has any ſymptom of violent reſiſtance.

Should it happen that all this is in vain,—ſhould the protection of the laws be withdrawn, public juſtice denied, the abſolute natural rights invaded, the great end of civil ſociety wantonly ſubverted by its own ſovereign; what other remedy is left to citizens than that which is pointed out by nature—the return to their natural ſtate, by forming themſelves into a new ſociety, under a new government, upon the baſis of a conſtitution calculated to enſure the permanent enjoyment of public happineſs?

CHAPTER IX.

Of the different forms of government.

BY *anarchy* is underſtood that ſtate of civil ſociety wherein there is no government. But where there is no

no government, there can be no form of it. Anarchy is therefore juſtly reckoned one of the greateſt curſes that can befall civil ſociety, and is ſtiled a monſter in politics.

Sch. 1.—This mortal enemy to public peace and happineſs particularly invades free governments when the citizens exchange the honeſt manners of true republicans for ſelfiſh purſuits and the arts of intrigue. Sometimes worſhipping as idols the work of their own hands, then impatient of the ſupreme controul which their free conſtitutions have placed in the hands of the men of their free choice, they, like the cameleon, exhibit complexions ſurpaſſing the power of deſcription.

Sch. 2.—Let it be remembered, that it is not the momentary attachment to a party, the wild adherence to a particular form, &c. purſued by adminiſtration, but real goodneſs, a diſcreet, faithful, active performance of all public obligations, that conſtitutes the good citizen. Names may be bait for the ignorant and ſelfiſh; but the good citizen will look for reality, for merit, parts, honeſty and public virtue, and eſteem any perſon who poſſeſſes them, whether in or out of office, whether a federaliſt or an antifederaliſt, &c.

Sch. 3.—It is therefore difficult to determine whether free enquiries into the conduct of public perſons proceed from principles of anarchy, or from patriotiſm. But ſo much is certain, that patriotiſm ought to be guided by wiſdom, and ſhew due deference to government, always obſerving a proper diſtinction between men and meaſures.

Sch. 4.—When I behold the electioneering mania, which begins to grow into faſhion, and ſoon will be of the force of precedent, ſo that thoſe who come hereafter will take party zeal for liberty, I cannot but ſee the deſcription of Virgil's monſter realized in the complexion of the ſelf-conceited leader, who, like Polypheme, threatens to devour what comes before him. "Monſtrum horrendum, informe, ingens, cui lumen ademptum."—The horrid monſter, of hideous form, too unwieldy for rational controul, too much blindfolded to controul himſelf.

Ochlocracy is that ſtate of civil ſociety where it is ſplit into tribunal factions, each claiming and aſſuming

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ing to itſelf the right of government, and uſurping the exerciſe thereof by violence. Here we are preſented with horrid ſcenes of confuſion and public calamity, but with no form of government.

Tyranny and *deſpotiſm* are ſuch ſtates of civil ſociety, where the government is ſeized and continued by uſurpation, violence and unjuſt oppreſſion,—where obligations are laid down as the rule for the conduct of the governed, which depend upon the will and pleaſure of the tyrant or deſpot. Theſe however we diſdain to call forms of government, for ſuch governments are contradictory to the dignity of human nature and only fit for brutes. Since there is ſomething in them of uniformity, rule and method, let us call them methodical injuſtice, methodical rapine and oppreſſion!

Sch. 1.—It has been often obſerved, that governments and governmental men are very apt to lean to deſpotiſm. Want of experience leaves us at a loſs whether this phænomenon proceeds from the nature of government, or from the nature of man. We ſuppoſe, however, that thoſe come neareſt the mark who attribute that effect to both thoſe cauſes; for it is natural, in proceſs of time, for government to comprehend more and more ends: the conſequence will be, that more means, new reſources muſt be found to enable the perſons adminiſtering government to accompliſh thoſe ends. A ſimilar cauſe incites men to advocate and proſecute the meaſures which have originated in their own advice.

Sch. 2.—It is generally reckoned a political virtue in ſtateſmen to be conſiſtent with themſelves: however ignorant of court morality, we ſhould be apt to reckon it a great token of fortitude if great men would reject ſyſtems which they find oppreſſive: for conſiſtency can only be a virtue where we have been right, a circumſtance which cannot always take place in affairs managed by men.

Sch. 3.—Citizens, therefore, who have the choice of public men, ſhould weigh the advantages and diſadvantages of a rotation,

rotation, and ſee which way the complexion of the times and the public good of the ſtate incline.

Government aſſumes a form when its inſtitutions aim at a public good, and when the will and power for the attainment and preſervation of that end are under public direction; for then there is a ſociety, from the nature of which reciprocal rights and obligations flow, and a political union is conſtituted.

The *eſſential form* of all governments we therefore place in the transfer of the will and power of all the members of a ſociety: all governments either acknowledge or preſuppoſe ſuch a transfer; and the citizens of all ſtates either glory in this transfer as their birthright, or acquieſce in the ſuppoſition of its having taken place.

Sch. 1.—The doctrine of divine right ſtill has its abettors in ſeveral parts of Europe, among proteſtants as well as among others, and may be conſidered as a relic of political ſuperſtition.

Sch. 2.—So much is certain, that government is neceſſary for human happineſs, and thus far dependent on the will of God, as it is inſtituted and adminiſtered in conſiſtency with the dictates of natural law, and is conſequently conducive to the advancement of human happineſs.

The different *forms* of government reſult from the different modifications of the moral perſon, veſted with the will and power of the civil ſociety.

We muſt beware not to confound with the forms the different *qualities* of government, reſulting from the modifications of the will and power transferred, which may be with various limitations, or without any at all.

Governments, according to their qualities, are either *deſpotical*, or *limited*. Limited governments admit of a variety of degrees.

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The qualities of governments are not eſſentially connected with their particular forms: deſpotiſm may reign in democracies as well as in ariſtocracies and monarchies: one government may be more energetic, another more weak: in one may be exerciſed the greateſt rigour, in another lenity and mildneſs.

The forms of government are either *ſimple* or *mixt*.

The ſimple forms are the *monarchical*, *ariſtocratical* and *democratical*.

The monarchical, where an *individual perſon* is veſted with the will and power of the ſtate.

The ariſtocratical, where a certain claſs of citizens are veſted with the right of government.

The democratical, where the citizens exerciſe the government by certain public officers appointed by their ſuffrages. Such were the ancient republics of Greece, and ſome of theſe are to be met with among the cantons of Switzerland.

The mixt forms of government may reſult from the combination of all three, or of two of the ſimple forms. Thus the kingdom of Great-Britain conſiſts of the king, of the houſe of lords, and of the houſe of commons.

Sch.—There are other ſtates of Europe and of Aſia which may be adduced as examples of mixt monarchies of the two forms, the monarchical and the ariſtocratical; as, Germany, Poland, &c.

Repreſentative governments are, where the monarchical, the ariſtocratical and democratical powers are diſtributed. Inſtances of theſe we have in the general government of the United States, and alſo in almoſt all the individual governments of thoſe ſtates. With reſpect

reſpect to the former, the office of preſident is ſimilar to that of the king; the ſenate correſpond with the houſe of lords, and the houſe of repreſentatives has the reſemblance of the houſe of commons; with this difference, that as there is no hereditary prerogative in either of the former branches of the American government, but all their dignity proceeds from the ſuffrages of a free and independent people; ſo the third branch is not the nominal, but the true repreſentative body of the people; becauſe, choſen by biennial general elections, they immediately depend upon the ballots of the freeholders.

CHAPTER X.

Of the powers of government, and the diſtribution of them in mixt governments.

ALL the rights of ſovereignty in a ſtate have reference either to the right to make laws for the purpoſes and exigencies of its government—to the right to apply thoſe laws to particular caſes and perſons, or to the right to put them and the deciſions in conſequence of them into execution.

Theſe three diſtinct rights have obtained the name of the three *powers* of government, the *legiſlative*, the *judicial*, and the *executive*.

In deſpotical governments and in ſtrict monarchies, as in Ruſſia, Pruſſia, &c. theſe powers are inſeparably connected with and reſide in the individual perſon who is at the head of the government. The monarch is the lawgiver; he appoints the judges, whoſe deciſion ultimately

ultimately depends upon his ratification; and he is finally the ſole moral cauſe that puts the laws and thoſe deciſions in conſequence of them which meet his approbation, into execution.

The conſequence is, that his will and pleaſure is the ſupreme law of the land, upon which the liberty, life and property of the citizen depend.

Though in limited monarchies, or in ariſtocratic governments of the ſtrict kind, theſe rights are generally limited and determined by expreſs or ſuppoſed fundamental laws, yet there is little ſecurity for the liberty of the citizens, ſince the interpretation of thoſe laws, the deciſions in conſequence thereof, and the execution of ſuch deciſions, are in one perſon, or in a particular ſet of perſons, who might find it convenient to have an intereſt different from that of the people.

In mixt governments, theſe powers are not only determined and defined by fundamental laws and conſtitutions, but they are diſtributed among ſeveral branches of the government, and thus certain checks are provided upon one another, ſo that theſe powers are lodged in diſtinct bodies of men, as independent of one another as the conſtitution directs and ordains.

The diſtribution of the powers of government admits of various modifications, which are beſt learnt from the conſtitutions of different countries.

In the government of the United States, the legiſlative power is lodged in a houſe of repreſentatives, in a ſenate, and in the executive, who has, under certain reſtrictions, a negative upon all bills which he does not approve, but, ex officio, gives ſanction of law to all approved bills by the great ſeal and his ſignature.

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The judiciary is an authority independent both of the legiſlative and the executive, except that the perſons exerciſing it derive their appointment from thoſe two branches.

The executive, beſides giving ſanction to all laws which have their conſtitutional quality, appoints, with the conſent of the ſenate, all officers of government, and exerciſes the interior rights of ſovereignty, &c.

However, leſt the executive abuſe this power of eminent ſovereignty which inveſts him with the right to ſanction public laws and put a negative on bills preſented, proviſion is made, by which bills may become laws without his conſent, to wit, when two thirds of the members perſiſt in their determination, &c.

CHAPTER XI.

Of the fundamental law of the ſtate, and the public meetings of the people, together with the modes of deliberation.

THE fundamental law whereby the diſtribution and exerciſe of the ſovereign power of a ſtate is regulated, and its mode of government in all its parts organized, is ſtiled the *conſtitution* of the ſtate.

Since the powers of a ſtate are indiſſolubly connected with the will of its citizens, in regard of its firſt cauſe and origin, it is evident, that the civil ſociety, in its collective or repreſentative capacity, has the excluſive right to make or to alter its conſtitution.

When the members of civil ſociety, in their collective or repreſentative capacity, meet for extraordinary public tranſactions, which relate to the fundamental law of the ſtate, they are ſaid to meet in *convention*.

The civil ſociety is in its *collective capacity*, when, on general notice being given, its members meet in perſon. Of ſuch as do not meet, a tacit conſent is preſumed to all that has been agreed upon by the majority met.

Sch. 1.—In ancient republics, which were frequently confined to cities, with a ſmall territory circumjacent, the meetings of the people were of the collective kind; at leaſt ſuch cities took the lead, if they did not aſſume the right of being the ſole conſtituents of the popular aſſemblies.

Sch. 2.—As ſuch cities and the limited territories around them had formed republican governments, a miſtaken notion has taken place, that republican governments were only calculated for ſmall ſtates, but entirely incompetent to the exigencies of large empires.

Sch. 3.—Since the invention of the art of printing, the means of information have been multiplied, and the communication of ſentiments rendered eaſy through an extent of territory that would have been impracticable in former times.

Sch. 4.—It is on this account that, notwithſtanding many abuſes, the liberty of the preſs muſt be conſidered a public bleſſing.

Beſides theſe great advantages, we ought to conſider the *repreſentative* capacity of the people as a vaſt improvement in the art of government; as, by means thereof, the moſt extenſive countries may be wonderfully concentrated, and their public concerns ſubmitted to the collected wiſdom of thoſe who are conſidered as the wiſeſt and beſt men of the ſtate, becauſe they are choſen by and from the general maſs of the citizens.

Sch. 1.—Happy that ſtate in which citizens have franchiſes ſo eminently

eminently great, that the government is founded in their own choice, and that frequent elections of their repreſentatives and officers of government put it in their power to correct the evil effects of a miſtaken choice: but only happy and likely to continue ſo, if they endeavour to keep elections, the fountain of public power, pure and undefiled; ſo that the queſtion is, who is the man beſt qualified for the poſt—not the man of party or connections!

Sch. 2.—Is it neceſſary to invite free citizens to a careful uſe of theſe great and ineſtimable rights? Is it pardonable to neglect them? Should a free citizen, as long as he can exerciſe this right, neglect any opportunity to do it freely, impartially, unbiaſſed by party zeal, and firmly determined to take the ſide of the virtuous and honeſt candidate?

Sch. 3.—If the fountain is not pure, what can we expect of the rivulets proceeding from it?

When perſons, choſen by a majority of voters who have duly met in their collective capacity, aſſemble for the diſpatch of the public concerns of the ſtate, they are called the *repreſentatives* of the people: what is done by them, or by a majority of them, is reckoned to be done by the whole people in their repreſentative capacity, and is conſequently binding on the whole ſtate.

If the conſtitution determines what particular number of perſons may proceed to public buſineſs, that number is called a *quorum*.

When, upon due notification, a quorum has met, they may proceed to buſineſs.

In repreſentative or republican governments, as well as in ariſtocracies, if any thing is determined, it will be by unanimous conſent or by a majority.

Where unanimous conſent is neceſſary, hardly any thing can be concluded, at leaſt the felicity of the ſociety

ciety is to the utmoſt precarious: this is the caſe with the government of Poland.

Sch.—Though neceſſary unanimity in public proceedings generally defeats all attempts to do what is advantageous for the people, yet ſuch unanimity is the moſt eligible deſideratum in all caſes where evil is to be dreaded from the exerciſe of public powers intruſted to the hands of frail men.

The greateſt excellence of the Britiſh laws conſiſts in this particular, that no accuſed perſon can be condemned except by the unanimous conſent of his peers. The trial by jury and the liberty of the preſs are therefore juſtly reckoned prerogatives of free citizens, worthy to be handed down unimpaired to the lateſt poſterity.

It is therefore wiſely provided in the conſtitutions of governments, that a majority determine.

In a monarchy, all depends upon the directions of the monarch.

Sch.—It is to be obſerved, that the titles *king*, *emperor*, &c. *are not perfectly ſynonimous with the term monarch:* there are kings and emperors who are reſtricted by conſtitutions and laws, and far from being monarchs; for inſtance, the king of Great-Britain, the emperor of Germany.—Ruſſia and Pruſſia are, what France formerly was, monarchies of the ſtrict kind.

Confederated ſtates are ſuch as are united together, by mutual conſent, for the purpoſe of mutual defence, forming a common intereſt in conducting ſuch defence, in caſe any of the confederation ſhould ſuffer an aggreſſion; for inſtance, the cantons of Switzerland, and the United States of North-America before the adoption of the new conſtitution.

It is by this conſtitution that the United States are conſolidated into one general government, ſo that the individual ſtates retain all thoſe rights of ſovereignty which relate to their internal government, whilſt the

rights

rights of national ſovereignty are transferred to the government of the union.

Governments are variouſly limited, by compact, by expreſs or ſuppoſed conſtitutions.

Thoſe which are not limited by fundamental laws are limited by nature; for ſovereignty flows from the right of government, and the public good is the ultimate end of this right; therefore, any right aſſumed and exerciſed contrary to public good, is inconſiſtent with the law of nature, the dignity of man, and the majeſtic will of God.

Deſpotiſm is conſequently repugnant to the principles of natural law, a monſtrous abuſe of power in whatever government it may take place.

We ſhall wave the queſtion, Which form of government is beſt calculated for the advancement of public happineſs? becauſe it is obvious, that cuſtoms beget habits, and that what has become habitual ſeems moſt natural, and of conſequence muſt be moſt pleaſing. As a father is fondeſt of his own children, ſo it is natural that a perſon is beſt pleaſed with his own country and its government; and in either of theſe caſes arguments have little weight.

But, that writers on morality continue to fancy a difference of character naturally more fit for this or that ſort of government, is juſtly matter of ſurpriſe; for, human nature cannot change, and that needs muſt be beſt which beſt advances man's improvement in wiſdom, goodneſs and happineſs. Let it be obſerved, that governments intended for the regulation of human conduct muſt be limited—that of the limited governments, the mixt are moſt ſuitable to the moral nature

ture of man, and more favourable to liberty than any ſimple form—that thoſe citizens are free indeed, who have both the direct and the indirect choice of their rulers—that free citizens will continue to enjoy this bleſſing, and will doubtleſs deliver it as an indefeaſable patrimony to their poſterity, who, it is to be hoped, will be careful to make a wiſe and good uſe of their ineſtimable rights, in order to tranſmit them from generation to generation, inviolate and unimpaired.

Much depends upon a juſt and wiſe adminiſtration: a government well adminiſtered may and ought to be a public bleſſing: but to ſecure this effect, great care, prudence, moderation, watchfulneſs, firmneſs, perſeverance, &c. are required on the part of the rulers. Things which have but a remote influence on public happineſs muſt not be neglected: the duties of humanity ought to go hand in hand with the moſt faithful performance of the public duties of their reſpective ſtations: what may tend to prevent or to relieve poverty and diſtreſs—what may render domeſtic life juſt and happy—what may ſerve to diffuſe a ſpirit of induſtry and œconomy throughout all orders and conditions of the citizens—what may lead to the promotion of the cauſe of virtue, and ſerve as incentives to a faithful diſcharge of the duties to God, to themſelves and to their fellow citizens,—ought to be amongſt the firſt concerns of a government towards the people; becauſe, for theſe ends the ſovereign is veſted with ſuch ample, ſuch important rights over the community.

The education of youth, that great and important object of the leſs ſocieties, calls for the moſt ſolicitous care on the part of the fathers of countries, and ought to

to engage their attention more than the diſciplining of citizens for the eventual defence of the country.

It is to government, whatever its form may be, that citizens have a right to look up for relief and redreſs, for juſtice, protection and public happineſs.

Whatever the form of government may be, ſo much is certain, that its *power to do good is unlimited.* Thoſe who exerciſe that right to this end deſerve the name of *great* and *good men*; ſuch are fathers of their country, and a public bleſſing.

In conſtituting and eſtabliſhing the limits of government and the ſubſequent adminiſtration thereof, *two extremes* muſt be avoided:—If too much power be lodged in any particular branch of government, particularly in the executive, it may materially affect the liberty of the people; if too little, the internal peace of the ſtate, its ſafety, external ſecurity and reſpectability abroad, muſt become unſtable and precarious.

Much, therefore, is requiſite, indeed more than human wiſdom can foreſee, for ſecuring permanent goodneſs in a government, however well eſtabliſhed.—Standing armies are ſo far from being a mean for public happineſs, even in the hands of the beſt governors, that in ſome caſes they may be conſidered as the bane of civil happineſs, and in other reſpects bear the complexion of a neceſſary political evil, as, like all publicans in a ſtate, they muſt ſupply the want of public virtue on the part of the citizens.

If citizens would be faithful to their public obligations, if they would not often place their private intereſt in the counteracting public good, if they would ſtudy public honeſty more than is generally the caſe,—

the

the government would not have cauſe to create an hoſt of dependents, and the public would not be peſtered with the irkſome attendance of inquiſitorial viſitants, who might be more uſefully employed.

We conclude with this obſervation, that the citizens of the United States have cauſe to glory in their free conſtitutions: if they are ſupine in making the beſt, that is to ſay, a virtuous uſe of their rights, if they are dilatory or neglectful in the performance of all thoſe duties which the public good requires, the leaſt that can be ſaid is, that they ſin againſt themſelves—a ſin which, if not the moſt unpardonable, is certainly the moſt unnatural.

PART

PART III.

Of the univerſal Law of Nations.

CHAPTER I.

Of the univerſal principles of the law of nations and the general rights of national independence.

THERE are ſtates which have in themſelves that ſovereignty by which they provide for their reſpectability and external ſecurity, and correct or repel incroachments and injuries which might be meditated or attempted againſt their ſafety by other civil ſocieties: —There are others again, which make their external ſecurity a common intereſt with ſome other ſtates, by way of confederation; whilſt there are alſo ſuch as aſſociate for that purpoſe, under a common general government. In the firſt caſe, the national concerns of the people are directed by the immediate government of the ſtate; in the ſecond, the rights of external ſovereignty are exerciſed by an aſſembly of the confederated bodies politic; in the laſt, the national ſovereignty is lodged in a general government.

Sch.—In the firſt caſe, the ſtate itſelf is a nation; as, France, Ruſſia, Sweden, Venice, Genoa, &c. In the ſecond, the confederation bears the character of the nation; as, the States General of the Seven United Provinces of the Netherlands, and the Helvetic body, or the aſſembly of the cantons of Switzerland, &c. In the laſt, the general government repreſents the nation and tranſacts the national

affairs of thoſe ſtates which have formed the political union; for inſtance, the German empire, Great-Britain, and the general government of the United States of North-America.

A ſtate, or a confederation or an aſſociation of ſtates veſted with the external ſovereignty requiſite for ſelf-defence, have place among the nations of the earth.

A nation is therefore ſimply defined to be a ſtate externally or *abſolutely independent*; that is to ſay, not ſubject to the authority, controul, or government of any other body politic.

Sch. 1.—It has been already obſerved, that the external or abſolute independence of ſtates conſtitutes their national character. Nations may be different in many reſpects, for inſtance, in that of the form or the quality of government, of the extent and ſituation of territory, and of various other relations; but all ſuch things relate to their political character ſolely, and do not in the leaſt affect their national independence.

Sch. 2.—Hiſtory furniſhes us with inſtances of nations which have loſt their national character. There are ſtates which, for the ſake of finding greater ſecurity in a confederation or in an aſſociation, have transferred their national right: and we have recent inſtances of ſtates which have ſhaken off their former dependence and made themſelves abſolutely independent.

Sch. 3.—Nations, in ſhort, have their changes and viciſſitudes, which are obvious evidences of the ſupreme government of Divine Providence over the affairs of the children of men. They have their riſe, progreſs, full growth,—become ſtationary,—decline and fall into ruin. Witneſs the Aſſyrian, the Perſian and the Greek monarchies; witneſs the mighty Roman empire, &c.

Since abſolute or national independence excludes all idea of ſubjection or ſubordination it follows, that no *inferiority* or *ſuperiority* can take place among nations.

From this it immediately follows, that nations have no

no perfect affirmative right in one another; that is to say, they are not in a social, but in a natural state.

The natural state of nations is *absolute* when they are considered in themselves, but becomes *hypothetical* when they are considered under certain circumstances.

Nations, contemplated in their absolute natural state, have *equal rights*; because they have the same nature, and are equally independent of any authority on earth.

From this it follows, that when the circumstances of nations differ, their rights may differ; but when they are under the same circumstances, their hypothetical natural rights will be the same.

Hence it follows, that nations live in a state of *absolute equality*, or in a state of *natural liberty*.

Sch.—What is permitted in one is also permitted in another; each nation may do what it pleases, provided it commits no injury to another, or breaks not through a public engagement, or does not commit what among nations is reckoned injurious.

No laws, therefore, will apply to the affairs of nations but those which flow from the nature of absolute independence, or such as they consent to by conventional agreement, or those which rest upon the customs and usages followed by civilized nations. Customs among nations may be considered as rules for national conduct, which have the force of conventions resulting from tacit or constructive consent.

Sch. 1.—Hence we may see the propriety of the distinction of the law of nations into *natural* and *customary*. It is true, authors have added a third kind of national law, which they call *conventional;* but that distinction may be considered as unnecessary, since both the natural and the customary laws conspire in regulating the conduct of nations, with regard to the treaties or conventions which subsist or are supposed to subsist between them.

Sch.

Sch. 2.—However, as it is not our deſign to enter into the irkſome and extenſive field of national affairs, as they are *de facto* conducted by the nations of the earth, and as we confine ourſelves to thoſe univerſal natural principles which ſhew what nations *ought* to do; we ſhall wave an explanation of the various conventions which have, or are ſuppoſed to have taken place between them, and attend ſolely to what is called the *immutable* and *univerſal* natural law of nations.

Since nations are by their nature abſolutely independent of any controul, it follows, that they may direct this their independence to their own perfection as they think proper; that is to ſay, they may claim the right of equality as their *own by nature.*

A nation, therefore, that is diſturbed in the exerciſe of its natural right of equality, is injured.

We may conſequently lay down as the *fundamental law*, by which all national concerns are to be regulated, this propoſition: NATIONS MUST ACT SO THAT THEY COMMIT NOTHING WHEREBY THE RIGHT OF THE NATIONAL EQUALITY OF OTHERS IS DISTURBED OR INFRINGED.

Sch. 1.—Actions by which the natural right of equality is infringed, amount to national injuries, and are juſt cauſes for national defence and war.

Sch. 2.—Actions by which the natural equality is deſtroyed, deprive a ſtate of its national character and dignity.

Sch. 3.—Such actions may take place either from choice or neceſſity. The former is the caſe if ſtates enter into a national confederation with other ſtates, or form a national union under a general government; the latter is generally the effect of conqueſt.

The right of natural equality to which a nation is entitled by nature, implies all other rights with which it is or may be veſted by lawful acquiſition; becauſe the latter are lawful property, and it is a hypothetical natural

natural right that the lawful acquirer or poſſeſſor ſhould have the excluſive right of his acquiſitions and poſſeſſions.

Hence it follows, that the fundamental law of nations reſts immediately upon the two principles of perfect laws, which, as has been heretofore explained, command men to *give every one his own*, and carefully to *abſtain from doing an injury to any perſon whatever*.

Sch.—Behold the two infallible criteria by which the conduct, the conventions and cuſtoms of nations are to be eſtimated! The ſame univerſal principles which direct the actions of individuals, are the baſis and foundation of *political* and *national rectitude*, the *greateſt glory* to which ſtates or nations can or ought to aſpire.

As it is a fundamental law, according to which nations muſt regulate their conduct with reſpect to one another, that they ſhould give every one its own, and abſtain from committing injuries; it is neceſſary, that nations ſhould know one another; for without this knowledge, theſe duties cannot be ſatisfied.

The important queſtion therefore obtrudes itſelf, Who is the nation?

In order to determine this queſtion with preciſion, it is neceſſary that we diſtinguiſh certain ſituations and circumſtances, which have reference to the political and internal character of nations.

If reſpect is had to their original and eſſential national ſovereignty, we anſwer, THE PEOPLE *are the nation, the ſource and the ſum of all national power and ſovereignty*.

But if the people are under a regular national government, we anſwer, THE GOVERNMENT, whatever its form or quality may be, *is the nation, and excluſively veſted*

veſted with the national rights of ſovereignty, ſo far that no act can be conſidered as national, which cannot be contemplated as an action of which the national government is in ſome manner or other the moral cauſe. Vide *page* 84 and 85.

Sch.—Let it be obſerved, that in a treatiſe on the law of nations, all public rights and obligations are taken as immediately affecting the national rulers or governors: *ſo that in this treatiſe we take the rulers or the government for the nation.*

However, if the government and the people are ſo far at variance that a majority have declared againſt the former, an anſwer to the before mentioned queſtion is difficult. If other nations cannot ſuſpend a determination on this point, which they ought to do, if poſſible, in order to keep themſelves ſafe and to avoid all interference with the internal affairs of a nation, then they ought to conſider THE RULING POWER as the nation; becauſe it muſt be ſuppoſed that thoſe who rule are ſupported by the majority of the people, in whom the ſupreme power is originally founded.

Sch. 1.—However juſt this manner of reaſoning may be, and however much it would conduce to the happineſs of mankind, if nations would reſpect it ſo far as to obſerve that forbearance which national duties as well as the duties of humanity impoſe upon them; ſtill the ſad experience of all ages has evinced, that this important queſtion concerning national conduct towards a neighbouring nation when fallen into a ſtate of commotion, has never had a fair diſcuſſion, or even a hearing, before the tribunal of reaſon, but always, like the Gordian knot, has been decided by the ſword, the *ultima ratio regum.*

Sch. 2.—If natural governments have their powers from the people, it is a ſtrange phænomenon indeed to ſee this power exerciſed to their deſtruction, by the very hand that ought to protect their rights, their liberties, their lives and their property! To ſee a nation at variance with itſelf

itſelf is a pitiful aſpect, and its concomitant circumſtances and effects are horrid and dreadful.

Sch. 3.—It is therefore a matter of ſurpriſe, that national governments ſo far forget their rights and duties as to make uſe of that power which is given them for the protection of their reſpective nations, to augment the calamities of another nation, by unjuſt interference in what are its own concerns.

Sch. 4.—Were it not a fact often eſtabliſhed by experience, we ſhould hardly think it poſſible for a people, in ſuch caſes, to ſuffer their rulers to abuſe the delegated powers by applying them to ſuch horrid purpoſes. Strange, that a people can be ſo far intoxicated as to bring the treaſure of the nation and the blood of their fellow citizens ſacrifices at the ſhrine of inhuman ambition and unnatural injuſtice, for the deſtruction of the deareſt rights of humanity!

Sch. 5.—This queſtion is important with reſpect to the internal good government of the ſtate or nation, and deſerves the moſt ſerious conſideration both of the rulers and ruled, that each party be faithful in the performance of their reſpective public duties. Paſſion indeed will not give a rational deciſion: the democrat and the ariſtocrat of the preſent day are pre-determined not to agree. But unprejudiced reaſon willingly declares for government, as long as the conſtitution is the invariable rule for conducting its adminiſtration, and as long as the rights of the people continue to be held ſacred and inviolate.

CHAPTER II.

Of the duties of nations in general.

THERE is no doubt but nations, that is, the rulers of ſtates and nations, are moſt ſacredly bound to the performance of all thoſe natural duties which reſult from the nature of civil ſocieties veſted with national

tional independence; for they are bound to regulate their conduct in perfect conformity to the precepts and prohibitions of the natural law.

Since all natural duties may be distinguished into commissive and omissive, into perfect and imperfect, and into duties to God, to ourselves and to others, it follows, that the duties incumbent upon the rulers of states and nations are either commissive or omissive, perfect or imperfect, duties they owe to God, to themselves, and to other nations.

Sch. 1.—The duties which nations or states, that is, their governments, owe to God, concern the cause of religion and public worship.

Sch. 2.—The duties which they owe themselves are either of a political or national nature, or both alike. The first have reference to those public obligations under which rulers are to promote the internal happiness of a nation; the second relate to its external security; the last comprehend all that concerns both internal and external security; for instance, laws for promoting the internal peace and preventing injuries against foreigners; likewise, the placing of citizens in a proper state of defence for quelling an insurrection, as well as for preventing or repelling an invasion. Hence we discover the propriety of reserving the subject of the political duties of the rulers of states for the law of nations, because a repetition of the same duties may be avoided thereby, and those which are solely national are brought to their proper place.

Sch. 3.—The duties which nations owe one another solely concern national governments, and constitute what in the substance of the term is called the *law of nations*.

The nature of things requires, that a material difference be observed with respect to the political and national duties of the public rulers, as such, and those which are incumbent on them as individuals, or as members of any of the lesser societies.

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This diſtinction is more eſpecially neceſſary, becauſe men in an elevated public ſtation forget that they are under the ſame obligations to perform their duties to God, to their families, &c. as devoutly and ſincerely as the meaneſt of their ſubjects are held to perform theirs.

Before the tribunal of God, and in the forum of nature, emperors, kings and nobles are but men; there is no diſtinction but this, that they will be judged according to the faithfulneſs with which they have performed more extenſive duties than fall to the lot of other men. Their ſtation is high, but there is no real cauſe to envy it, becauſe their duty and their reſponſibility are great. *To whom much is given, of him much will be required.*

This thought, and the incontrovertible experience that kings die like other men, ſeem to be ſufficient cauſes why they ſhould fortify their breaſts againſt the inſinuating poiſon of flattery.

Referring, therefore, the rulers of the earth, in their perſonal capacity, to the beſt ſyſtem of ethics—the ſacred precepts of the Bible,—we proceed to treat of their public duties, or that line of public conduct which they ought to obſerve in the adminiſtration of the powers entruſted to them for the good of mankind.

CHAPTER III.

Of the duties of the rulers of ſtates and nations with reſpect to religion and public worſhip.

SINCE religion is the glory of human nature, and the duty to glorify God incumbent on all men, it fol-

lows, that the rulers of ſtates and nations ought to direct the public powers entruſted to their care for the promotion of all that has a beneficial and neceſſary influence on the advancement of the cauſe of vital religion, of piety and virtue, whereby the citizens may be incited to take motives for their moral actions from the holy ways and perfections of God, ſo that the whole nation may be united in a ſincere deſire to glorify their Creator, the Supreme Ruler and Governor of the univerſe.

As God cannot be glorified if we take not motives for our conduct from the perfections of the Deity, it follows, that the rulers of ſtates and nations muſt themſelves be actuated with an indefatigable deſire to conduct their public adminiſtration of government in conformity to the ways and perfections of the Moſt High.

Thus the nations of the earth will be led in the beſt and moſt forcible manner to glorify God, if their rulers ſet them the auguſt and conſpicuous example.

Sch. 1.—Directions which are not neceſſary for promoting the glory of God can ſeldom have a beneficial influence on the cauſe of piety and virtue, and are unbecoming a wiſe and good government: the leaſt that can be ſaid of them is, that they are an idle ſtretch of public authority.

Sch. 2.—Such as militate againſt the cauſe of vital religion, virtue and true piety, are oppoſed to the manifeſtation of the glory of God, and an abuſe of ſovereignty as wanton as it is reprehenſible.

Sch. 3.—How careful, therefore, ſhould governments be, that their public proceedings may be no obſtacle to ſo great and good a cauſe! How ſolicitous, on the other hand, to do all in their power for its protection and advancement!

Governments act contrary to their public duties, when they apply violent means, or reſort to other unlawful

unlawful methods for hindering any of their citizens in the free enjoyment of that religion which they think beſt calculated for promoting the glory of God and their own happineſs: for, that government certainly does not glorify God which aſſumes a power to judge the conſciences of men, and thus impiouſly uſurps what is the ſole right of God. He, the Moſt High, who will not give *his glory to another*, cannot be glorified by acts of public injuſtice and violent oppreſſion. Such proceedings in rulers cannot be juſtified on any account; for, beſides the juſt mentioned weighty arguments, they openly revolt againſt the very nature and ſcope of civil ſociety: neither is any ſociety naturally lawful, if the members thereof are deprived of their indefeaſable natural rights of conducting themſelves as free and moral agents, reſponſible in all their actions to their Maker. No lawful ſociety requires a ſacrifice of that nature; and any ſociety which requires it, is unnatural and more than tyrannical.

It is therefore an indiſpenſible duty which the governors of ſtates and nations owe to God, that they protect the citizens in the undiſturbed enjoyment of their religion.

It is a queſtion variouſly agitated among authors on the law of nations, how far that protection extends, with reſpect to the free exerciſe of public worſhip—whether one, two or three religious profeſſions are excluſively entitled to that privilege in preference and perhaps to the prejudice of all others?

Here is pre-ſuppoſed, which eaſily flows from the nature of things, that a certain day ought to be ſet apart for public worſhip—a day of reſt, where each citizen is under public obligation to abſtain from labour or diverſions,

verſions, whereby the public worſhip may be interrupted or diſturbed.

Sch. 1.—The firſt day of the week has continued to be this public day among all the profeſſors of Chriſtianity from the reſurrection of Chriſt to the preſent time. The French only have of late broke through that general conformity, altering times and ſeaſons with an enthuſiaſm equal to that with which they changed their old form of government. It is to be hoped, that, when that nation is left to think for themſelves, they will return from the extravagance of irreligion, and ſee the vaſt difference between true religion and ſtupid ſuperſtition, which for a long time has darkened their horizon, ſo that it is no wonder they cannot ſee the light of real truth and taſte the ſweets of pure, heaven-born religion.

Sch. 2.—The Jews adhere to the ſeventh day of the week as a day of reſt, ſet apart by the Creator, to be kept holy by attending to the concerns of their ſouls and eternity.

If, then, in a Chriſtian country, that is, in a ſtate or nation where the majority of the citizens profeſs Chriſtianity, the various ſects and profeſſions of that religion reſpectively attend public worſhip after that mode which each of them think beſt, they certainly will not interfere with reſpect to time, as this is the ſame among all denominations of Chriſtians: neither can any interference take place in the exerciſe of public worſhip, ſince, in truth, this becomes the more public in proportion to the numbers which participate thereof, and then deſerves to be called *national*, when no citizens are excluded from the exerciſe of ſolemn worſhip who can poſſibly be partakers thereof.

To give any particular perſuaſion the excluſive right of public worſhip in preference and to the prejudice of others who have adopted a different mode, in caſes where no interference with public worſhip or public good takes place, is ſo far from being neceſſary or naturally

turally lawful, that, on the contrary, it is a wanton abuſe of power, and an error the more fatal, as it has the ſanction of the majority of the ſtate or nation for its ſupport.

Sch.—Eſtabliſhments, as they are to be met with in the European and Aſiatic countries, as they are generally managed, muſt be conſidered as relics of political ſuperſtition, or as meaſures which the blind enthuſiaſm and party zeal of ſuperſtitious ignorance and bigotted violence have provoked as means neceſſary to curb the power and influence of a party inimical to public good, or to defend the nation againſt foreign machinations and intrigues ſubverſive of its government.

Whilſt we lament that religious eſtabliſhments have ever taken place, we cannot but rejoice that the United States of North-America, and the happy concord among the citizens thereof, exhibit a conſpicuous argument againſt all excluſive rights unfriendly to any profeſſor of religion whatſoever.—Yes, as a country whereof the generality of the inhabitants are Chriſtians of ſome denomination or other, the Chriſtian ſabbath is the eſtabliſhed day for public reſt and for public worſhip. On this day, all denominations of Chriſtians worſhip publicly, reſort to their houſes of worſhip, approach the throne of the Eternal, each in that mode which appears to them beſt. Our ſtreets on the public days of worſhip repreſent (and may they ever continue ſo to do!) the beautiful ſight of brethren dwelling in unity.

Sch.—The Jew celebrates his own ſabbath, and labours under no inconvenience except that which ariſes from the nature of the civil ſtate—he muſt abſtain from work out of doors on the Chriſtian ſabbath, whilſt his own is deſtitute of the ſanction of the laws of the land as a day of reſt.

Where eſtabliſhments have taken place, and an inequality has been introduced among citizens, unfriendly to

to their civil liberty, it is the duty of rulers to do their utmoſt that unneceſſary burdens may be done away, and that laws of ſuch a nature may be either abrogated, or reſtricted in their operation and effects: for of religion it may be ſaid what Chriſt anſwered before Pilate—*My kingdom is not of this world.*

As little as it is conſiſtent with the principles of nature to oppreſs, or unneceſſarily to reſtrict citizens with reſpect to the exerciſe of their religion, ſo little can it be right, that a nation may exile a number of citizens who diſſent from what abuſe has introduced as the national religion of the land. It is a great queſtion, whether any crime or miſdemeanor in a citizen can deſerve a puniſhment tantamount to the deprivation of his domocile, of his country—to his being torn from his deareſt connections?—However this queſtion may be ultimately determined, it certainly cannot be a crime to follow the dictates of our own conſcience in things which are not repugnant to public good.

Sch.—Should the ſtrange and ſelfiſh *ipſe dixit* of enthuſiaſts or hypocrites have ſuch an effect with rulers of nations, as that, to ſatisfy their pride or intereſt, the liberty of the meek and peaceable citizen muſt be made a ſacrifice, the moſt uſeful and moſt faithful members of ſociety baniſhed their native country?

Glaring as the abſurdity of ſuch conduct may be, ſtill it has been purſued and applauded. The Hugenots were not long ſince a fatal inſtance of this tyrannical abuſe of power; and France has loſt in them more than all her foreign conqueſts have been able to compenſate.

From what has been hitherto explained, it follows, that the different profeſſions of religions in a ſtate are naturally entitled to more than is expreſſed by the term *general toleration.* As citizens, they are entitled to the enjoyment of all rights which are conſiſtent with the public

public good, and cannot without injury be conſidered as outcaſts and nuiſances, who are merely ſuffered to enjoy rights to which they have no lawful claim.

Sch.—There is no doubt but that thouſands would look upon toleration as a great bleſſing; whilſt there are many who would fain ſacrifice every thing to eſcape the fangs of ſpiritual tyranny and oppreſſion, and to be ſuffered to exile themſelves in order to keep their conſciences undefiled.

We return from irkſome political caſuiſtry to the general duties which the rulers of ſtates and nations owe towards the Deity. Their authority is given them for the ſole purpoſe of promoting the happineſs of the people: they cannot, therefore, remain unconcerned, whether the minds of the people are or are not duly impreſſed with reverence for the glory and majeſty of the Supreme Ruler of nations: they ought, as far as it is phyſically and morally poſſible, to employ their authority in the purſuit of all proper and juſt means for impreſſing the minds of all with a lively ſenſe of the neceſſity of obeying the laws of God in truth and in ſincerity.

Thoſe things which are phyſically poſſible in the hands of government for rendering the performance of duties due to the Deity general among the citizens of ſtates or nations, are, on the one hand, the encouragement of ſcience, and the extending the aid of government to ſuch inſtitutions of learning as ſerve as general means for improving the minds of the people in true knowledge, which leads to a conviction that it is neceſſary to fear and to obey God—a conviction without which no ſervice can be ſincere, no worſhip acceptable: on the other hand, a diſpoſition manifeſted in the public proceedings of government, to favour and patronize the virtuous and upright of every perſuaſion,

ſuaſion, and an earneſt deſire to recommend the cauſe of religion, of virtue, philanthropy and piety, by their own conſpicuous examples.

The power of governments is very great—that of doing good has no bounds: it will therefore be objected, that more things are phyſically poſſible for enforcing the performance of duties due to the Lord of the univerſe. It is true, compulſory means are phyſically poſſible, and in many countries have unfortunately been employed: oppreſſions and cruelties have taken place, which are ſtriking monuments of the unfitneſs of men to rule conſcience, of their aptneſs to pervert the cauſe of God and religion, and of their proneneſs to be ſeduced by a ſpirit of fanaticiſm, ſuperſtition or ſtubborn infidelity.

Let it ſtand as an incontrovertible political maxim, that God has never entruſted to men his cauſe—that no means, however well intended or qualified, are morally poſſible, or juſt and lawful, which in themſelves are inconſiſtent with the idea of religion, repugnant to the dictates of reaſon, or contradictory to the firſt principles of natural laws.

How ſhould government have an authority which men cannot and which God will not grant? Rulers of ſtates and nations, who know any thing concerning their duty to God, do not arrogate, impiouſly arrogate to themſelves rights which are the only prerogative of the great Judge of heaven and earth.

They may employ their public authority for preventing and forbidding notorious prophaneneſs, blaſphemy, and other offences of a horrid and abominable nature, by making them cognizable in the municipal laws of the land.

Let

Let no perſon object to this as an encroachment upon the conſciences of men; for, blaſphemy and ſome other acts of prophaneneſs are actions ſo abominable in their nature, ſo deſtructive in their tendency, that the government, independent of its being a duty to God, would not do juſtice to the nation, nor act conſiſtently with the public good, if it ſhould be remiſs in reſtraining the licentiouſneſs of the unruly and wicked, by puniſhments adequate to the enormity of their offences.

Since perſons who can be guilty of blaſphemy and abominable prophaneneſs ceaſe to conduct themſelves as men, no injuſtice is committed when they are arrived at that pitch of wickedneſs and folly, if reſtrictions are impoſed upon them for ſecuring the tranquility of the ſtate.

Upon the whole, actions of a wicked nature and deſtructive tendency cannot be treated as a matter of conſcience; nor have thoſe who have diveſted themſelves of all ſenſe of moral conſcience, and bid defiance to common decency, any claim to its ſacred rights.

Sch.—However juſt and right it is that rulers ſet their face againſt any thing which is unfavourable to the cauſe of religion, and puniſh offences of a notoriouſly heinous nature, ſtill great care is neceſſary that juſtice be not perverted and ſuffered to degenerate into cruelty and perſecution. Truth hath been more than once cried down as blaſphemy: virtue and innocence cannot always ſecure us againſt the ſhafts of ſlander and defamation. Governments have to take cognizance of overt-acts, which are contradictory to public good: it does not become them to be partizans with reſpect to particular modes of worſhip, nor is it ſuitable to their ſtate to ſet up inquiſitorial authority.

The rulers of ſtates or nations ought to be ſenſible, that they are accountable to God for all they do in

their public capacity—that *righteouſneſs exalteth a nation*, and that *ſin is the reproach of any people.*

As it is a public duty of the rulers of ſtates and nations to hinder all that is incompatible with public good, it is evident, that government has not only a juſt right, but is in duty bound to check the progreſs of doctrines which are in a direct manner oppoſed to the preſervation of that deſirable object.

Sch.—If, for inſtance, perſons ſhould preach the lawfulneſs of, or practiſe promiſcuous concubinage; if they ſhould teach, that it is not right to ſubmit to government, either becauſe it is ſaid that Chriſt has made us free, or becauſe the perſons adminiſtering government differ with reſpect to religious ſentiments and external mode of worſhip, &c.

CHAPTER IV.

Of the duties which ſtates or nations owe themſelves.

THE duties which nations owe to themſelves flow in a manner ſo immediately from the firſt principle of natural law, that for the idea of man we have only to ſubſtitute that *public inſeparable relation* which ſubſiſts between public rulers and the ſtates or nations over which they preſide, and draw this general analogical concluſion: 'The rulers of nations owe thoſe duties in their kind towards the ſtates or nations under their controul, which individual men owe to themſelves.'

At this rate, the firſt duty of the rulers of ſtates and nations will be, that they truly love their people, by doing all in their power to render their ſtate as happy

as

as poſſible. So that the ſum of all public duties is the advancement of the intereſt of the ſtate or nation.

It is therefore an important duty, that the rulers learn to know what is really intereſting to the nation, and carefully diſtinguiſh realities from the falſe appearances of national greatneſs or ſplendour.

The perfection of a nation is very extenſive, complicate and intricate: the care of the rulers of a nation muſt be extended to the perfection of the ſouls, the bodies, the external ſtate and the character of citizens, and more eſpecially to the preſervation of the national independence.

Beſides the protection of the cauſe and the encouragement of a faithful performance of the duties of piety and virtue on the part of all orders and conditions of citizens, the rulers ought to furniſh them with opportunities and means whereby their underſtandings may be improved, that they may obtain knowledge in all things which may influence their domeſtic or political happineſs—that they may be relieved from and fortified againſt confuſion and error, particularly with reſpect to what is good or bad, right or wrong—that they may be enabled to diſtinguiſh things of great uſefulneſs from thoſe which are of leſs utility, and from ſuch as are dangerous, ſinful, improper or wicked.

They muſt endeavour to give the will of the citizens the beſt directions for the purſuit of what is really good and virtuous: for this end, the governors of ſtates and nations have the right to make and put in execution wholeſome laws, that the good and faithful citizens may be protected and rewarded on the one hand, and on the other wicked perſons deterred from doing evil.

It

It is a public duty of the rulers of ſtates and nations, that they uſe the authority given them for the great purpoſes of countenancing and promoting all that may render the people wiſe, diſcreet and virtuous, and of prohibiting whatever has a contrary effect or a pernicious tendency.

As inſtitutions of learning have generally a ſalutary effect in making men wiſe and good—behold the important public duties of national rulers to order that ſuch inſtitutions may be ſet on foot and well conducted!

Since there is nothing which has a more powerful influence upon the human mind than the hope of immortality, the rewards and puniſhments of another life; it is evident, that it is a very important duty of rulers to hold forth, in all their public proceedings, their ſenſibility of their own accountableneſs before God, ſo that the citizens may be properly actuated by the force of ſo great and good an example.

The love which the rulers of nations ought to exerciſe towards their people, implies the moſt tender care for the preſervation of their lives and health, and the attainment of all things neceſſary and convenient for promoting theſe great purpoſes.

All things then neceſſary for the ſupport of life, for the preſervation of health, and for augmenting natural wealth, are national duties. Rulers are to encourage the arts, agriculture and commerce—to reward the induſtrious—to provide for the poor and needy—to have a care that the whole body politic may be cemented together by mutual aſſiſtance, and to order things ſo that a harmonious co-operation may pervade all claſſes and occupations of the people, that they give one another

that

that ſupport and vigour which conſtitute the political life and happineſs of a ſtate.

The whole nation in particular calls for the ſtricteſt attention on the part of their rulers, to the great duty of political ſelf-preſervation.

The life of a body politic or a ſtate conſiſts in its political union; that of a nation comprehends, beſides that union, all the rights of abſolute independence.

As the rulers of ſtates are in duty bound to ſecure the community againſt inſurrections and diſorder from within, ſo thoſe of nations have moreover to be careful that the independence of the nation or any part thereof be not infringed, encroached upon or deſtroyed. The loſs of independence is the political annihilation of a nation.

Whatever claſhes with the independence of a nation puts it in a ſtate of neceſſity, which may be abſolute, extreme, or reſpective. *Vide* page 141.

In either of theſe ſtates, the rulers are in duty bound to uſe all poſſible means to avert the danger and preſerve the independence of the nation.

Sch.—Hence the rights of defence and war with which rulers are inveſted by nature in caſes of neceſſity.

Should rulers find no other remedy left to preſerve the independence of the nation than to conſent to a diſmemberment of the body politic, by giving up a fortification, a town, a province, &c. the ſtate of neceſſity not only juſtifies, but alſo lays the indiſpenſible duty upon them to conſent to ſuch diſmemberment. But to alienate provinces or places on any other account is a ſtretch of power and a moſt unnatural and flagrant act of injuſtice.

As

As national ſelf-preſervation centers in national independence, it follows, that the rulers of a nation are in duty bound to be careful that the natural right of abſolute equality be not inſulted or infringed by any other nation whatever.

Sch. 1.—It is therefore of ſome importance to know to what length government has a right to go in moderation and forbearance, with reſpect to inſolent treatment on the part of other nations,—ſince, by exceeding the juſt meaſure which prudence and other circumſtances dictate, the nation may be injured by its own government.

Sch. 2.—Where there is not perfect equality among nations, independence is but nominal, or to the utmoſt precarious.

This leads to a conſideration of the duties of national rulers concerning the character and reſpectability of the nation.

By the character and reſpectability of a nation we underſtand the favourable opinion of other nations concerning the wiſdom and energy of its government, and the riches, ſtrength, reſources, means of defence, &c. of the ſtate, but more particularly the valour and patriotiſm of the citizens.

A nation governed by wiſdom, where the public rulers reſpect the rights of other nations, and are tenacious in the maintenance of their own—where agriculture and manufactures flouriſh—where arts and ſciences are cultivated—where love of virtue and order prevail—where a ſpirit of patriotiſm pervades all orders and conditions of men—where the means of defence are provided, and the citizens are able and willing to make uſe of them—where the public revenue is properly applied,—that people ſtands fair to be beloved at home and reſpected abroad, and will doubtleſs conciliate the good will of all other nations.

We

We only add, that, as the manners and taſte of a nation have a vaſt influence on its proſperity, it will be an important duty on the part of government to endeavour to give them the moſt ſalutary direction, by doing all in their power to inſtil in the minds of the people a lively ſenſe of true honour.

Sch.—Since the moſt eſſential duties which nations owe themſelves have been attended to under the head of politics, it may be deemed unneceſſary to enlarge here on any further explanation of them.

CHAPTER V.

Of the duties which nations owe one another.

SINCE the duties which nations owe one another flow from the law of nature, it follows, that they may be diſtinguiſhed into duties of humanity and of neceſſity.

By the duties of humanity nations are bound to conſider one another as ſocieties of fellow men—as ſo many communities of the univerſal ſociety of the human race, placed under the government of the Moſt High, and individually as well as collectively bound to obey his holy will, in rendering one another as happy as poſſible. National rulers, conſidered in this light, are bound to befriend other nations—to alleviate their diſtreſſes—to cultivate peace as long as poſſible, and, in caſes of neceſſary defence or war, to exerciſe humanity, forbearance and moderation.

Sch.—How deſirable and happy would be the ſtate of the human race, if the duties of humanity, friendſhip, good neighbourhood

neighbourhood and benevolence were generally and ſincerely exerciſed amongſt national governments!—How fatal is it for the happineſs of mankind, that jealouſy, diſtruſt, rivalſhip, ambition, luſt of power and dominion, take place of that general benevolence and brotherly affection which would enſure more univerſal and permanent happineſs than all treaties of commerce, amity or alliance ever will afford!

However, as this amiable union of intereſt and affection between national governments ſeems to remain among the *pia deſideria* of the philoſopher and philanthropiſt,—the time not being yet come for nations to embrace one another as brethren, which they really are as fellow inhabitants of the earth, fellow members of the univerſal kingdom of the Moſt High, who graciouſly diſpenſes his providential mercies over all the nations of the earth,—it remains for the law of nations to take into conſideration the perfect duties which they owe towards one another.

The moſt general duties of neceſſity, under which all others of a ſpecific nature, ariſing from particular relations and circumſtances incident to national affairs, may be brought, are the following:—

No nation muſt injure another, by either actually or implicitly endangering its ſecurity.

Nations muſt give one another their own; that is to ſay, they muſt be careful not to interfere in the rights of each other, eſpecially the natural right of equality.

A nation that has become guilty of injuring another muſt make reparation, leſt it give juſt cauſe for defence and war, and thereby endanger its own ſecurity.

A nation muſt never reſort to defence or war without a juſt cauſe: when either becomes neceſſary, care ſhould

ſhould be had that it be conducted with equity, and not continued beyond the limits of natural juſtice; that is to ſay, hoſtilities muſt ceaſe as ſoon as reparation can be obtained and national ſecurity re-eſtabliſhed.

Nations are bound to ſtand faithfully to their public engagements, and ſtrictly to obſerve the ſtipulations of the treaties which ſubſiſt between them.

CHAPTER VI.

Of the natural rights of nations.

NATIONS, as ſuch, enjoy *natural rights*, which are either *abſolute* or *hypothetical*.

The abſolute natural rights of nations flow from their nature, conſidered in themſelves; that is to ſay, from the idea of national independence.

Their hypothetical natural rights reſult from that national independence conſidered under certain circumſtances; for inſtance, a nation has a right to prohibit the exportation of raw materials out of the country—to permit the currency of foreign coin, &c.

The abſolute natural rights of nations might be diſtinguiſhed into various claſſes, and theſe again ſpecified to a conſiderable extent, if it were our intention to enter into a minute detail of them.

But the general ideas explanative of all the particulars requiſite for ſpecific information on this ſubject, having been already explained, when we treated of civil ſociety, the nature, different forms and qualities

of governments, the diſtribution of the exerciſe of political and national ſovereignty,—it may ſuffice to obſerve here, that all the abſolute natural rights of nations center in the free exerciſe of all the rights of ſovereignty neceſſary for their own internal government, together with the right of abſolute equality and national independence, ſo that no power on earth, no nation, nay, no combination of nations, has any ſhadow of right to interfere with either the one or the other.

Sch. 1.—Nations have conſequently the abſolute natural right to change their government, conſtitution and laws as they pleaſe; and other nations interfering, under any pretence whatever, act contrary to the abſolute natural right of nations.

Sch. 2.—The republic of France and the kingdom of Poland exhibit ſcenes of horror and injuſtice, and ſhow how little the great ones of the earth reſpect the laws of nature and of nature's God.

The hypothetical natural rights of nations are ſtill more multifarious, according to the great variety of circumſtances differently affecting national governments and national affairs.

The moſt notable circumſtances which introduce great and conſequential modifications into national affairs, are, on the one hand, a ſtate of peace and public ſecurity; and, on the other, a ſtate of war and public inſecurity.

CHAPTER VII.

Of the natural rights of public ſecurity and peace.

THE hypothetical natural rights of public ſecurity and peace reſt upon the right of abſolute equality: for one

one nation commits no injury againſt another by enjoying either of thoſe rights; conſequently it cannot meet with any diſturbance by virtue of any right founded in nature. Hence we conclude, that a nation has a natural right to live in ſecurity and peace, when it ſuffers no diſturbance from and keeps itſelf clear of committing injury againſt others.

Since rights to the attainment of lawful ends imply the right to make uſe of all thoſe means which are neceſſary for thoſe ends, it follows, that nations have a natural right to make uſe of all lawful means for the preſervation of ſecurity and peace.

To determine the ſpecific rights of ſecurity and peace, attention muſt be had to the particular complexion and ſituation of national affairs:—The whole of the enquiry turns upon theſe two conſiderations: whether, at the preſent time and under the preſent circumſtances, certain public proceedings of a nation are means neceſſary for its ſecurity and peace; and whether thoſe public proceedings are lawful.

Sch.—For inſtance, if a nation erects fortifications, augments its navy, recruits its army, and puts itſelf in a reſpectable ſtate of defence, the queſtion will be, Are theſe proceedings meant for war; is a rupture to be dreaded; or does that nation provide for its own ſafety?

No nation lawfully provides for its ſafety that arrogates to itſelf a controul, right or power over another independent ſtate; becauſe the right of equality is infringed, a national injury takes place, and that nation gives the other a juſt cauſe for defence and war.

No nation can lawfully provide for its ſafety by compelling the aſſiſtance of another; for ſuch a conduct would be arrogating a right over an independent nation.

No

No nation may march through the territory of another without its conſent; for ſuch a conduct would be uſurpation and arrogation of right over another nation.

Sch. 1.—The territorial ſovereignty of a nation is co-extenſive with its independence and dominions.

Sch. 2.—The republic of Genoa has bravely maintained that independence, and thereby eſcaped the greateſt public calamities, which have been brought on other ſtates by the lawleſs arrogation of right on the part of the formidable combination of the European powers that has been occaſioned by the preſent revolution in France.

Nations are all independent ſtates, and poſſeſſed of equal rights; no natural precedency can, therefore, take place, except that which reſults from the order of nature: according to this, nations have their beginning, arrive to the zenith of national glory, decline and vaniſh away. Some are as it were born when others become extinct. If then nature ſhould be the guide to determine rank, it would follow, that that nation is entitled to precedency which is of the moſt ancient origin.

Sch.—As among individuals, ſo amongſt nations, it is not venerable age always, nor even virtue and wiſdom, but power, riches and ſplendour that determine rank and precedency.

CHAPTER VIII.

Of the natural rights of defence.

A Nation is injured and in a ſtate of inſecurity when another either ſhews an inclination to infringe its rights, or actually diſturbs it in the enjoyment of its national

national independence; for abſolute independence, the right of equality, and all other acquired rights, conſtitute what nations may excluſively claim as their own.

Since a diſturbance in what is a nation's own, by the national interference of another, is a national injury, it follows, that in ſuch caſes a nation has the natural right of compulſion, reparation, defence and war againſt any other that becomes guilty of committing a diſturbance, an injury, a damage, or any act of intended or actual aggreſſion.

When nations make uſe of violent means to avert a public injury, they exerciſe the natural right of the aggreſſed againſt the aggreſſor, and reſort to what is called *national defence*.

Since national defence is frequently attended with great riſks and loſſes on the part of the lawful defender; and ſince the happieſt defence brings great calamities on an inconceivable number of individuals, and often on the moſt innocent citizens of both the contending nations; it follows, that the rulers of nations ſhould do all in their power to *prevent an aggreſſion*; that is to ſay, to *prevent a national injury*, by uſing efficacious means, lawful in themſelves, but not violent in their nature or conſequences, for the purpoſe of inducing other nations not to entertain a deſire or to manifeſt an inclination to become an aggreſſor. *Vide* p. 189.

Nations have a right to prevent national injuries, by obſerving a juſt conduct towards others, and by putting themſelves in a proper ſtate of defence.

National defence cannot be juſt when it is not founded in a juſt cauſe or conducted in a lawful manner.

Nothing

Nothing can be a juſt cauſe for national defence, except a national injury, either actual or impending.

Nothing, with reſpect to nations, can be conſidered public or national, except what has reference to the national government.

We diſtinguiſh national injuries into direct and indirect, and into immediate and mediate.

Injuries which proceed from or are ſanctioned by government are *direct*, and *ipſo facto* national, if they are levelled againſt the government of another: thoſe which depend upon the agency of private perſons are *indirect*, and may become national when the government *ex poſt facto* approves of them, or, upon repreſentations made and ſatisfaction required by the injured government, ſuffers ſuch repreſentations to remain unnoticed, or withholds that ſatisfaction which is due.

Thoſe injuries which are committed againſt the national government are ſaid to be *immediate*, and are in themſelves national, if, as has juſt been remarked, they come from government, or have its ſanction; but ſuch as are done to the private citizens of a nation, whether directly by government or indirectly by individual perſons, are called *mediate*, and become national when repreſentations from the government of the injured citizens are ſlighted, and ſatisfaction, which is due, withheld on the part of the rulers of that nation from which the injury has proceeded, whether it be by acts of their own or by ſuch as bear their ſanction, or by the private agency of citizens under their controul.

Thus, even injuries committed by ſtrangers become national when they are countenanced by a national government.

Sch. 1.—From this diſtinction flow the following maxims of national rights:

The ſovereign ought to redreſs the injuries of the ſtate and protect its citizens.

He ought not to ſuffer his people to offend other national governments or their citizens.

The faults of individuals are not immediately imputable to the rulers of nations.

Governments that approve or ratify the actions of their citizens againſt other nations, become the moral cauſe of ſuch injuries, and conſequently aggreſſors.

An offended nation that has the private perſon who has been guilty of national offence in its power, has a right to compel reparation on the part of ſuch offender.

National governments offend others if, upon repreſentation, they refuſe juſtice, and make it a practice to connive at the robberies and plunders committed by thoſe under their authority.

Vide Vatel, *B.* ii. *chap.* 6.

Sch. 2.—There are no principles flowing from nature which warrant what in the proper ſenſe of the term is called *revenge* amongſt nations. Natural juſtice extends not farther than ſatisfaction and ſecurity. Nations acknowledge no ſuperior tribunal on earth: the inflicting of puniſhment is, therefore, an unwarrantable uſurpation of power, which may entitle a people to the exerciſe of national ferocity, Gothic barbarity, but not to a national right.

Among national rulers, the ſame diſtinction holds good between a breach of duty and between injuries, which takes place in the tranſactions of individuals: want of reſpect to a prince is therefore very far from being in itſelf a national injury. It may, in ſome inſtances, juſtify a ſimilar behaviour, a certain indifference and coldneſs; but cannot juſtify violent meaſures, war and bloodſhed, wherein thouſands of innocent perſons become involved. *Vide* p. 178, &c.

There

There is a great variety of national injuries; for nations may have a variety of things and rights which are their own; and there are inconceivable actions, modes and ways in which disturbances may take place.

Sch.—Perhaps all national injuries might be referred to these three heads: injuries against persons, property and rights.

As nations are bound to abstain from all injuries, it follows, that they are sacredly bound to make reparation, either by restitution or satisfaction.

The damages resulting from national injuries may be casual direct and indirect. *Vide* p. 185 and 186.

When a nation causes direct damages against another, the latter has not the right of punishment, but the right of requiring particular security against future machinations of unnatural malevolence; for, as has been said, punishment is contradictory to national independence.

Damages may be also distinguished into great and small, with respect to the effects; but in themselves the internal immorality of a national injury is to be estimated by the standard of the important right of absolute independence, which by every injurious act is infringed.

The right of defence implies a right to compel reparation; for nations have a right to avert as well as to repel injuries. *Vide* p. 186.

Nations, however, cannot be forced to exercise any of these rights; for, as independent bodies politic, they may make such uses of what is their own as they think proper.

They may therefore forbear to exercise, or even remit their right of defence, by a public declaration of amnesty.

Sch.

Sch.—It is a queſtion of another nature, whether, in ſome caſes, ſuch forbearance comports with prudence and the duties which nations owe themſelves, or conſiſts with that humanity which one nation ſhould feel for the ſufferings and ſafety of another.

Whether a nation chuſes to remit or to exerciſe its right of defence, no third nation is thereby injured.

In the proſecution of the right of defence, a neutral power may be hurt by acts of the proſecutor; but the injury of that hurt muſt be charged to the injurer.

Sch.—What has been obſerved with reſpect to the beginning of acts of violence among individuals, perfectly holds good with regard to national governments; that is to ſay, not the nation which commences acts of hoſtility, but that which has provoked them is the injurer, the aggreſſor. *Vide* p. 187.

Nations have but a limited right of reparation and defence: no more violence is lawful than that which is ſufficient to afford ſatisfaction and ſecurity; neither are acts of hoſtility entitled to any further continuance; for in either of theſe caſes compulſion and defence would be deſtitute of a juſt cauſe; the defender would conſequently become guilty of an aggreſſion, and give the original aggreſſor a juſt right for defence, as far as the limits of a juſt and lawful defence are exceeded. *Vide* p. 187—192.

Since theſe important rights depend upon a juſt cauſe for their exerciſe, it is evident, that national rulers ought to be well convinced of this particular; for violent meaſures among nations are ſo dreadful and extenſive in their effects, ſo complicated in their nature, that it exceeds the power of conception to form any idea of the calamities which involve the lives, the rights, the property, the domeſtic and individual comforts of innumerable

numerable perſons of ſuch contending nations. The practice of engaging unjuſtly, or for a ſlight offence, in public meaſures of national defence, cannot but be infinitely heinous and criminal, both in the ſight of God and of men.

Sch. 1.—It is true, rulers of nations and their miniſters may do infinitely more good than other men, becauſe they enjoy uncontroulable powers and innumerable opportunities for rendering nations happy: but it is alſo true, that the temptations to make an improper uſe of thoſe powers are ſo many and ſo great, that the ſituation of ſuch men calls more for pity than for envy. The human ſoul revolts at the ſight of the ſacrifices which are daily making at the ſhrine of inſatiable and boundleſs ambition:—The hiſtoric page exhibits more monſters and deſtroyers of mankind, than fathers of their country, gods on earth!

Let us draw a veil over the imperfections of men, and take a leſſon for prudence and moderation, which beſt ſuit high ſtations in life, and conſtitute the greateſt ſplendour and glory of national governments.

Sch. 2.—When we examine the dreadful combination of powers in the eaſtern hemiſphere, unnaturally formed for what they ſtile mutual defence, we cannot help lamenting, that among the reaſons are mentioned, humanity, the cauſe of order, of good government, of morality, of religion, &c. as if objects of this nature required ſuch means of violence, or could in any ſhape juſtify unlawful interference in what is an independent nation's own right.

Sch. 3.—The unnatural contempt of religion on the part of that devoted nation which has been the object of their perſecution may, on the other hand, be conſidered as a temporary mean of defence againſt the power of ſuperſtition, and that ſtrange mode of ſupporting or preaching up morality; but a proſecution of ſuch ſtrange ſentiments muſt and will be a cauſe for endleſs feuds and animoſities, which finally end in diſſolution. A nation without religion, what is it? What is a people, warlike and great, that declares againſt it?

Sch. 4.—With reſpect to ſuaſory, probable or pretended cauſes for defence, *vide* p. 190 and 191.

National

National defence may be juſt with reſpect to its cauſe or cauſes, and ſtill unjuſt with regard to the mode in which it is conducted.

Sch. 1.—A defence deſtitute of a juſt cauſe can never be juſt, though it be conducted in the beſt poſſible manner; for in itſelf it is an injury, and a lawleſs aggreſſion.

Sch. 2.—The preſent conteſt between the combined powers and France exhibits, on the part of the former, with few exceptions, inſtances of regularly conducted defence, whilſt the latter have frequently tranſgreſſed; witneſs the mode in which they forced the ſpeedy ſurrender of poſts and garriſons.

A juſt defence muſt be carried on, ſo that the means be lawful and lawfully uſed; for nothing can be juſt that is contrary to the dictates of natural laws.

Nations may not make uſe of aſſaſſination, poiſoning or perjury; means which in themſelves defeat all poſſibility of ſecurity. *Vide* p. 193.

All other means for repelling an invaſion, compelling reparation, or guarding againſt aggreſſion, are lawful, if uſed with as much humanity as poſſible, and not further than the right of defence extends.

Sch. 1.—Among the lawful means of defence are reckoned ſoldiers and officers; a regular, well diſciplined militia: they are inſtruments in the hands of the national rulers to execute the public will of the national ſovereignty. This ſtate is lawful on the part of the ruled; nay, their duty, their birth-right, and their greateſt glory, when they are employed for the defence of their country: but men who are inſtruments of ambition, who are ſent upon conqueſt, or given to hire, who fight for no object but their pay,—how degrading their condition! how little comporting with the dignity of human nature! and how inconſiſtent with a lawful exerciſe of rights in perſons!

We wave entering into the minutiae of ſubſidies, auxiliaries, &c. becauſe nations have ſuffered their affairs to become preternatural; affairs which muſt be ſupported by remedies of the ſame ſtamp and nature.

Sch. 2.—There are other means for national defence of an inanimate nature, which are always and in themſelves means for defence and war; as, arms of all kinds; gunpowder, with its ingredients, and tools and implements neceſſary for carrying on expeditions, for ſtanding a ſiege, or proſecuting effectually the operation of defence. Add to theſe, ſhips of war and the materials for building and equipping them, tents, ſoldiers' cloth, fortifications, &c.

Sch. 3.—Likewiſe, proviſions of all kinds, live-ſtock, horſes, &c. though they are reckoned innocent in peace, may, under circumſtances, become means of defence and war: when by the one an army is ſupported, by the other it is enabled to take the field. When a place is blockaded or beſieged, live-ſtock and proviſions enable the defenders to hold out. Other things, as, waggons, horſes, &c. ſerve to facilitate the movements and various operations of defence and war.

There are caſes where a nation comes under a ſtate of abſolute or extreme neceſſity,—where the outrageous behaviour of an aggreſſor or invader renders neceſſary the uſe of means for defence, which in no other ſtate would be lawful.

This leads to a conſideration of the nature of the laws of *retaliation*, of *retortion*, and of *repriſals*, and the objects of them.

By *retaliation* we underſtand public proceedings, whereby an unreaſonable and outrageous aggreſſor is made to ſuffer exactly ſo much evil as he has done.

Sch. 1.—If an aggreſſor burns towns, wantonly maltreats and unjuſtly detains the perſons, or deſtroys the lives of citizens, ſacrifices their property, &c.

Sch. 2.—Theſe are caſes where the injurer tranſgreſſes the law of nature, and a queſtion ariſes, whether unlawful proceedings of one nation juſtify another to proceed to public acts of injuſtice?

Sch. 3.—The principles of natural juſtice declare againſt this mode of defence, except in caſes of abſolute neceſſity, of which the common ſaying holds good, *neceſſity has no law.*

There

There is a poſſibility for a nation to do itſelf juſtice, by exerciſing the right of reparation, in ſeizing on the things that belong to the injurious nation, and retaining them until juſt ſatisfaction is made.

Likewiſe, the aggreſſed nation may take from the nation guilty of aggreſſion thoſe privileges which it enjoys in the dominions of the former.

The law of *retortion* entitles a national ſovereign to treat the ſubjects of another in the ſame manner as the latter treats the citizens of the former.

Repriſals are uſed between nation and nation to do juſtice to themſelves, when they cannot otherwiſe obtain it. If a nation takes poſſeſſion of what belongs to another, or refuſes to pay a debt, repair an injury, &c. the other may ſeize and apply to its own uſe any thing that belongs to the nation thus aggreſſing, and may proceed in this manner till it has obtained full compenſation for intereſt and damage; or it may retain the property ſo ſeized as a pledge till ample ſatisfaction has been made.

Sch. 1.—Effects ſeized muſt be preſerved while there is any hope of obtaining ſatisfaction or juſtice.

As ſoon as that hope is loſt, they are confiſcated, and then the repriſals are accompliſhed. This takes place upon a rupture between nations and the commencement of hoſtilities.

Sch. 2.—Repriſals are only allowed by the law of nations upon a cauſe that is evidently juſt, or for a debt that is extremely clear.

No force can be lawfully applied by a nation, without knowing whether the other is or is not diſpoſed to do it juſtice.

Sch. 3.—Room is likewiſe left for repriſals where an adverſary refuſes the means of bringing the right to proof, or artfully evades it.

The

The objects of repriſals are either the public property of the nation, or that which belongs to the private citizens thereof.

An exception muſt be made as to things which are a depoſit truſted to the public faith; for the confidence placed in the public faith of a nation ought to be reſpected even in caſe of an open war.

Government ought to indemnify its citizens who ſuffer by repriſals.

The ſovereign alone can order repriſals.

Repriſals cannot be lawfully granted in favour of foreigners; for a nation has no right to ſet itſelf up as a judge between other nations.

If private perſons have given room for juſt repriſals, they ought to be compelled by their governments to recompence thoſe on whom ſuch repriſals are made.

Juſtice is denied by a refuſal to hear complaints—by not admitting ſubjects to eſtabliſh their rights before the ordinary tribunals—by affected delays—by a judgment manifeſtly partial and unjuſt, &c.

Nations may detain the citizens of one another by way of repriſals, and not releaſe them until ſatisfaction is received. Repriſals of this kind extend not to life or corporal pain; for ſuch proceedings are the effects of retaliation, and only allowable in a ſtate of abſolute neceſſity.

When a nation makes juſt repriſals, it proſecutes its own right, commits no national injury, and gives not a juſt cauſe for war. *Vide* Vatel—*Law of Nat. B.* ii. *chap.* 18.

CHAPTER

CHAPTER IX.

Of public war.

VIOLENT public defence is ſo nearly allied to public war, that nothing more is required to conſtitute the latter than for the former to become reciprocal.

Public war, therefore, may be defined to be that ſtate where national rulers reciprocally reſort to the exerciſe of what really is, or is deemed the right of public defence: it is that ſtate in which nations commit violence againſt one another, determined to repel force by force, in the name and by the order of the public power.

Public peace, on the contrary, is that deſirable ſtate of nations, where no reciprocal injuries have taken place—where no nation is looked upon as an aggreſſor, and where every one abſtains from acts of violence.

Sch.—For further elucidations on this ſubject, *vide* p. 196—199, with this exception, that what there applies to the conduct of individual perſons, is to be taken in reference to nations and national rulers.

Nations have a natural right of making war, if there is no other remedy left for repelling an unjuſt aggreſſion; that is to ſay, if they cannot without it enjoy peace and ſecurity; for the natural rights of a nation cannot be defeated by the lawleſs reſiſtance of an aggreſſor: if this were the caſe, there would be no moral poſſibility for government to direct what is a nation's own to the attainment and advancement of its public happineſs: a tame ſubmiſſion on the part of rulers of nations would conſequently

conſequently be a conduct contradictory to the firſt principle of the law of nature. Hence it follows, that it is ſo far from being naturally unlawful for nations, under ſuch circumſtances, to make war, that, on the contrary, it is their public duty ſo to do, whenever another nation unjuſtly and maliciouſly diſturbs the free enjoyment and lawful exerciſe of their natural right of abſolute equality.

It is evident from the nature of national independence, and the natural relation of nations, by which they are ſocieties of fellow men, fellow citizens of the world, that each ſhould enjoy its own, undiſturbed by any power or authority on earth; that is to ſay, live in peace and ſecurity. The right, therefore, which a nation has for the enjoyment of public peace and ſecurity, is abſolutely natural and inſeparable from the national ſovereignty of ſtates.

But it is otherwiſe with reſpect to the rights of violent defence and war; they pre-ſuppoſe ſome facts or public acts on the part of other nations, to wit, interference or diſturbance in thoſe things which are at the free diſpoſal of a nation for the ends of its political exiſtence, proſperity and independence. The natural ſtate of nations, therefore, is not a ſtate of war, but a ſtate of peace. *Vide* p. 199 and 200.

From the nature of the rights of peace and of war it is evident, that no right of public war can take place without previous diſturbance, of which a national government is in ſome mode or other the moral cauſe; for, where there is not a national injury either actual or impending, there can be no room for the public exerciſe of the rights of compulſion, reparation or defence.

That

That war is *juſt* which has a juſt cauſe and is juſtly conducted: public war, on the contrary, is *unjuſt*, when it is deſtitute of a juſt cauſe, conducted in an unjuſt manner, or protracted to an unlawful extent.

A war which really proceeds from a juſt cauſe, that is, from a national injury and diſturbance, may become unjuſt with reſpect to the mode, manner and extent of its being conducted.

An unjuſt war may be juſtly conducted; that is, the proper mode and manner preſerved which comport with the limited and reſtricted rights of compulſion and violent defence, or are ſanctioned by the cuſtoms and practices of the civilized nations of the earth; but being founded on an unjuſt cauſe, can never become juſt.

Sch.—What has juſt been ſaid of the various cauſes of defence, and what is remarked of wars deſtitute of juſt or reſting upon ſuaſory cauſes, in the ſeveral *ſcholia* at the bottom of page 200 and in the beginning of page 201, is fully applicable to the public wars of nations.

Acts of aggreſſion ought to be very well aſcertained, leſt nations become guilty of inexpreſſible miſchief—of tranſgreſſion againſt the dictates of natural law—of rebellion againſt God.

As ſoon as acts of mutual violence or hoſtility are begun, or war is declared, the nations at war, that is, the aggreſſor as well as the aggreſſed, are ſtiled *hoſtile enemies*.

Sch. 1.—Hoſtile enemies muſt be diſtinguiſhed from thoſe that bear us ill will.

Sch. 2.—That nations are not hoſtile enemies is not a ſufficient proof that they are friends and well wiſhers.

Sch. 3.—There is no ſuch thing amongſt nations as *natural enemies;* for if their territories, their commerce, &c. are

ſo ſituated that interference, or what is called *rivalſhip*, may eaſily take place, there is no cauſe why they ſhould injure or hate one another; on the contrary, ſuch ſituations are forcible reaſons why they ſhould cultivate a good underſtanding, harmony and peace.

Acts of hoſtility ſhould always be preceded by a formal declaration of war; becauſe, national wars teem with innumerable calamities, in which private perſons, even the citizens of neutral powers, are involved:—Beſides, according to the principles of nature, violence cannot be lawfully made uſe of, till other means have been found ineffectual for preventing an open rupture.

The diſtinction of war into defenſive and offenſive, has reference to the cauſe as well as to the operations of a war.—For further particulars concerning this different relation—for ſatisfying the enquiry, whether an offenſive war may be juſt? and for determining concerning the changes of operations, *vide* p. 201 and 202, together with the *ſcholia* 1, 2 and 3 of the laſt mentioned page.

How nations are bound to cultivate peace as long as poſſible; when and under what circumſtances they ſhould make reſiſtance; how and by what means they ought to endeavour to gain the good will of a nation that is not favourably inclined; what care and prudence are neceſſary, that preparations for putting themſelves into a proper ſtate of defence or that forming alliances provoke not acts of aggreſſion, upon the principle of an intended or impending injury, ſo that no pretext may be given for exerciſing the right of defence,—may be collected from what has been explained heretofore, under the chapter of the rights of defence and of war, particularly pages 202 and 203, with the two ſubſequent *ſcholia*, which begin page 204.

The

The rights of war are naturally limited by the rights of reparation and ſecurity.

A nation at war with another has a right to make uſe of all things which are natural, direct and neceſſary means for the ſecurity of national felicity and independence. That right extends to all manner of violence by which the power of the enemy may be weakened, the adverſary rendered unable to make further reſiſtance, and induced to conſent to equitable terms of peace; except, as has already been obſerved, acts of violence unnatural in themſelves, as, poiſoning, aſſaſſination and perjury: for it is a nation's natural right to enjoy its own, undiſturbed by another, and to live in a ſtate of external ſecurity. As long as a hoſtile enemy is able to carry on the war with vigour, he will continue his reſiſtance, and that ſecurity cannot be expected; but when deprived of the means, when weakened to that extreme that he cannot proſecute his views with vigour, he will conſent to terms of pacification, and the nation which has been the object of proſecution will enjoy that peace and ſecurity without which a community cannot be happy.

All violent meaſures, though they be naturally lawful in themſelves, become unlawful when they are not neceſſary for obtaining juſt reparation and full ſecurity.

With reſpect to the perſons and things which naturally come under the right of war, the cuſtomary law of nations determines in detail, and extends that right to all perſons and to all public and private property of the enemy: but the principles of natural law determine according to this maxim, *that it is neither wiſe nor lawful to make uſe of means which are not abſolutely and directly neceſſary for obtaining a lawful end, particularly in caſes where*

where ſuch means are grievous in their operation, and where they affect the innocent as well as the guilty.

Upon the ſtrength of theſe principles we make a diſtinction between perſons and things which come under the right of war in a direct and in an indirect manner.

Perſons and things which come under the right of war in a direct manner are,—perſons in arms, belonging to the army and public force of the enemy; warlike ſtores, ammunition, magazines, fortifications, ſhips of war, &c. in a word, all things which are the principal among thoſe that the cuſtom of nations has ſtamped with the appellation of *contraband* goods.

Things of an enemy thus coming directly under the right of war, are liable to ſeizure and appropriation, and, if theſe expedients are impoſſible or inconvenient, even to deſtruction.

Sch.—Such as are the property of ſubjects of neutral powers are liable to ſeizure, and, upon adjudication conſonant to the cuſtomary laws of nations, may be appropriated.

How far the right of war affects the life of perſons who bear arms or are part of the enemy's active force, cannot be determined with preciſion, unleſs we diſtinguiſh the various ſtages and other circumſtances attending the operations of war.

In an engagement, that is to ſay, in that ſtate where enemies actually contend for victory, the right of war extends to the life of perſons in arms, if there is no other mean to obtain ſecurity and to ſatisfy the duty of ſelf-preſervation; for during that period the parties are in a ſtate of abſolute or extreme neceſſity.

When victory is obtained, and perſons ſurrender themſelves, the right of war does not extend to life, if

if ſecurity can be obtained by confining the conquered as priſoners.

Perſons who do not bear arms, do not come directly under the right of war; their lives ought to be ſpared, and their perſons protected: but they may be ſecured, either by impriſonment or by oath of temporary allegiance, as the ſecurity of the adverſary renders the one or the other neceſſary. To treat women and children, aged perſons, &c. with ſeverity, or unneceſſarily to moleſt them, is conſequently naturally unjuſt and barbarous.

Private property, or public buildings and public records, are entitled to protection, if a contrary procedure is not abſolutely neceſſary for proſecuting the war or enjoying ſecurity.

Nations who take no part in the war of belligerent powers, and favour no party more than another, abſtaining from all interference, except that they equally tender their good offices for a reconciliation, are ſtiled *neutral powers*, and as ſuch are entitled to the *right of neutrality*, which extends to the government as well as to the people under its controul, and entitles them to the free enjoyment of their independency and of their lawful occupations, commerce, &c.

As long as a neutral nation and its citizens obſerve ſtrict neutrality, ſo long their perſons and property do not come under the right of war.

Neutral powers have a right to protect their citizens in the enjoyment of the right of neutrality: they are in duty bound to enjoin on them a forbearance from acts of partiality, whereby either of the belligerent parties may be injured: they ought to prohibit the ſupplying either party with contraband goods, &c.

Proviſions

Proviſions carried by the ſubjects of a neutral power to a place beſieged or blockaded, forfeit the right of neutrality; and ſuch goods, perhaps the veſſels alſo, become juſtly liable to ſeizure and confiſcation by the power that carries on the ſiege or has inſtituted the blockade.

Neutral powers may involve themſelves in war when their governments favour one party more than another, without a juſt and preponderating cauſe.

Nations which are bound by alliances previous to a rupture between belligerent powers, cannot be compelled to break through their public engagements: they conſequently remain neutral, if they do not exceed the clear and pointed ſtipulations of ſuch previous treaties.

CHAPTER X.

Of the rights of the victor.

BY *victory* we underſtand that ſtate between contending forces, wherein one party is ſo far reduced as to be incapable of making farther reſiſtance.

When engagements are *deciſive*, they will end in the victory of the fortunate party, who, as victor, has certain rights over the vanquiſhed in his power; which rights, though in themſelves the natural reſult of war, may with propriety, and for the ſake of perſpicuity, be called the *rights of the victor*.

In order to determine the rights of the victor, a diſtinction is to be obſerved between *temporary* and *final victory*: the former ends particular engagements, and

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in the courſe of a war is often changing ſides; but the latter puts an end to the farther proſecution of acts of hoſtility, and generally induces both parties to make peace.

The rights of a victor during and after an engagement do not extend to the lives of the vanquiſhed in his power, if in any poſſible mode he can put himſelf in a ſtate of ſecurity: for farther effuſion of blood would be deſtitute of a juſt cauſe.

The victor may keep the vanquiſhed priſoners; he may confine, enlarge or parole them, as his own ſafety requires or admits.

Priſoners ought, therefore, to be protected againſt abuſe and unneceſſary rigour, and ſupplied with proviſions: humanity requires their ſituation to be made as eaſy as poſſible, conſiſtent with the ſafety of the victor.

The victor has the right to ſecure himſelf againſt all thoſe perſons of his adverſary who have not borne arms; as, infants, women, aged perſons, &c.

In caſe of final victory, the victor has all thoſe rights againſt his adverſary, both with reſpect to perſons and things, which flow from and are warranted by the rights of reparation, defence and ſecurity.

If theſe rights are ſatisfied, and the national injuries ceaſe—if the damages are repaired, and the victor enjoys ſecurity,—there is no longer a juſt cauſe for war: farther hoſtilities conſequently become naturally unlawful, and the victor ought to conſent to equitable terms of peace: becauſe, it is the nature of a juſt war to be abſolutely neceſſary for the enjoyment of ſecurity and peace; and the ſcope of lawful proceedings is, that thereby theſe deſirable ends may be obtained and ſecured.

Sect.

Sch.—Other things concerning the facilitating meaſures for moderating the calamities of war, and for propoſing terms of capitulations and pacifications—for concluding truces and armiſtices—for complaining againſt outrages, according to the cuſtoms of nations, &c. by trumpeters, flags of truce, &c. come properly under the cuſtomary law of nations, and are not eſſential to the ſubject of this treatiſe.

CHAPTER XI.

Of national intercourſe.

FROM the natural rights and duties of nations to one another hitherto explained, it is evident, that nations are often under a neceſſity to tranſact public affairs with one another: there ought, therefore, to be perfect liberty for each nation to lay before others its requeſts, complaints, and other public concerns for its own proſperity and ſecurity.

This natural liberty, which is eſſential to the ſtate of abſolute equality, is ſtiled the right of *national intercourſe*.

As it is inconvenient for national governments to meet together, and impoſſible for the maſs of the people to hold ſuch an intercourſe, it appears, that the only mean left is, that perſons be publicly delegated, and ſent to tranſact the public buſineſs of the nation with the government of the other.

Since perſons ſent for managing the public affairs of a nation with the government of another bear the general name of *legates*, it follows, that the rights to ſend and to receive legates are excluſive rights of national ſovereignty, which, in times of internal peace, is always lodged in the national government, but often becomes

becomes doubtful, when a revolution is taking place, and the national controul aſſumed by one part of the people and conteſted by the other.

Sch.—In caſes of unavoidable neceſſity, the ruling party may be conſidered as the perſons who exerciſe national ſovereignty.

When a legate is ſent by one nation, it becomes a duty on the part of that to which he is ſent to receive him.

The perſon of a legate is ſacred and inviolable; for he tranſacts the concerns of an independent nation, is its public miniſter, and in ſome way or other its repreſentative.

The inviolability of a legate chiefly imports liberty of ſpeech, ſecurity of perſon, and the particular privilege of not being amenable to the laws of the land.

Theſe public rights of a legate flow from the principles of nature, and from the very nature of the public buſineſs of nations, both with reſpect to the one which ſends him, and that to which he is ſent: becauſe, the public concerns of nations involve obligations ſo high and important, that in caſes of colliſion inferior obligations muſt give way.

If a legate behaves improperly or injurioufly to the nation to which he is ſent, ſuch nation has no right to puniſh him, but can deſire his recall and demand ſatisfaction from his principal.

Sch.—In caſe of abſolute neceſſity, the principles of nature warrant the impriſonment or ſafe-keeping of an injurious legate; for in that ſtate a nation has a right to ſecure itſelf even againſt the nation which ſent him.

If a nation refuſes compliance with the juſt demands of another concerning the inſults or other injuries of

its public miniſter, the latter has a right to conſider ſuch refuſal as an injury directly proceeding from the government which ſuch injurious delegate repreſents.

Sch.—The treatment of delegates and their behaviour may conſequently become means for involving nations in violent meaſures of defence and war.

The privileges of a delegate being ſo great, his miſſion and reception ſo important, and the buſineſs itſelf intruſted to him of national conſequence; it is evident, that no perſon can have a juſt claim to the character of a legate, who is not furniſhed with and who does not produce ſufficient documents, which accredit and teſtify his public miſſion. Such documents have obtained the name of *credentials*. Legates muſt therefore have ſufficient credentials, and produce them, before they have any right to the privileges which appertain to a public miniſter at the court of a ſovereign nation.

The cuſtomory law of nations has introduced various and different characters, and applies different appellations expreſſive of them, to public miniſters, who, as ſuch, have equal rights with reſpect to the object of their miſſion, which is the management of the public concerns of their principals; but, according to thoſe diſtinctions, they have a different rank among the public miniſters of other nations at courts where they reſide.

Sch. 1.—Legates, according to theſe diſtinctions, are ſtiled *ambaſſadors*, *miniſters*, *envoys*, *charges des affairs*, *reſidents*, &c.

Sch. 2.—Conſuls have to attend to the commercial intereſts of the people: they are conſequently public perſons appointed and ſent by government; but as they do not tranſact the affairs of national ſovereignty, they, as public perſons, are entitled to certain rights and privileges, but not to the inviolability of legates.

CHAPTER

CHAPTER XII.

Of the hypothetical natural rights of nations with reſpect to treaties.

NATIONS enjoying abſolute independence have naturally no other affirmative rights in one another, than thoſe which are of imperfect obligation. All their natural perfect rights are negative; they muſt not injure one another, and are bound to give every one its own. If, therefore, they would obtain perfect affirmative rights in one another, they muſt do it by lawful acquiſition, founded on a juſt title and reſulting from a lawful mode, by which rights in things or in perſons may be acquired.

There being three modes of lawful acquiſition, to wit, by forfeiture, law, and pact; it follows, that nations have perfect affirmative rights in one another, either when injuries and damages are committed, or when their right of equality is infringed; or they obtain ſuch rights by the dictates of natural law, if a contrary conduct would prove to be an injury and cauſe damages: for inſtance; if a nation, fired by ambition, attacks without cauſe, ſolely from motives of aggrandiſement and conqueſt, a neighbouring power, there is ſufficient cauſe for a nation to conſult its own ſafety, and to inſiſt on the treſpaſſer's forbearance; and, in caſe ſuch claim of right is ſlighted, it has the further right to join and aſſiſt its neighbour, and to make a common cauſe with him againſt that nation, which muſt be conſidered as a common enemy, nay, as an enemy to mankind.

Sch.—The rights of forfeiture and law are the foundation of the rights of defence and war.

But a milder and more humane mode by which a nation may acquire perfect affirmative rights in another, is the mode of acquiſition by pact.

Pacts among nations are ſtiled *treaties*.

Treaties are concluded by the national ſovereigns, or by means of public perſons, ſpecifically veſted with mandatary powers given for ſuch a purpoſe.

Treaties comprehend promiſe, conſent, acceptance, transfer.

In treaties, the promiſe and conſent muſt be both lawful and fair; the acceptance and transfer explicit and well aſcertained: no ambiguities ſhould find place; no ſtreſs ſhould be laid upon certain modes of leaving room for different interpretation and diſputes concerning the *caſus fœderis*. Proceedings of this nature ſhould be far from the rulers, and are derogatory to the dignity of nations.

In all things where an actual colliſion takes place, prior treaties ſuperſede thoſe of ſubſequent date.

Sch. 1.—It is a great queſtion, whether treaties are for the advancement of the happineſs of mankind, or for the good of a nation?

Sch. 1.—To determine this queſtion, we have to obſerve two things: firſt, that nations, upon the ſtrength of the duties of humanity, owe one another friendſhip, aſſiſtance and mutual good offices; and that ſelf-intereſt will forcibly prompt rulers to ſincerity as much as can be expected or is commonly experienced from them: ſecondly, that by each treaty, nations part with ſome rights of abſolute independence.

Sch. 3.—Perhaps it may be objected, that they gain more by having a perfect claim, founded on the ſtrength of treaties, than if they were ſtill veſted with thoſe rights of abſolute independence.

independence. In treating of politics, we aſſerted, that the citizen is in a far more eligible condition, than the individual who has not parted with any of his abſolute natural rights; becauſe, the whole ſtrength of the ſtate is his protection, and the will of the community his guide; his intereſt is ſecured in the participation of the public good, ſanctioned by the public laws of the land. But,

What can a weak nation expect, when it has to cope with a powerful ſtate with which it was on friendly terms, but which proves to be inſincere and perfidious? How often have treaties been explained away, evaded, broke! How often have they been the means of laying a foundation for a new war! How liable are their operations to cauſe ruptures between the parties, or between either of them with its neighbour!

Sch. 4.—Let us therefore conclude, that nothing but neceſſity ſhould induce nations to enter into treaties. Happy thoſe nations which, like the Chineſe, can keep themſelves unſhackled! Happy thoſe which, as they cannot avoid following the cuſtoms generally adopted, confine themſelves to treaties of amity and commerce! In times of commotion among the nations of the earth, they can maintain the character of fathers of their people, ſecuring to them the rights of peace and neutrality: they bid fair for being reſpected as neutral powers, as they are not bound to allow one party that which by ſolemn ſtipulations they muſt refuſe the other.

Sch. 5.—Inſtances of the difficulties under which nations may be placed upon the rupture of other ſtates, we have experienced amongſt ourſelves, in the preſent conteſt between the powers of Europe and the firſt ally and friend of the United States of North-America.

When treaties are concluded, they ought faithfully to be obſerved: nothing is more pernicious to the common good of mankind, nothing more diſgraceful to a nation, than the guilt and well-merited imputation of perfidy.

Perfidy amongſt nations is a national injury, and is a juſt cauſe for defence and war.

Ruptures

Ruptures between nations may be, on the part of the injured defender, a juſt cauſe to break through all former ſtipulations with the enemy, provided they are not in their nature a kind of public truſt, which, both with reſpect to national governments and their citizens, ſhould be kept inviolate:—Still, all engagements which nations at war have entered into during the courſe of ſuch war, whether by themſelves or by perſons delegated for that purpoſe, or by certain officers, who, by virtue of their truſt and commiſſion, have the power to ſtipulate in name of the national ſovereign,—ought to be performed moſt faithfully, and with the ſtricteſt punctuality and exactneſs: for, an enemy cannot forfeit a right that was given him as ſuch, by proſecuting acts of hoſtility and violence; and, as ſuch engagements are neceſſary to mitigate the horrors and calamities of war, a party that proves perfidious in ſuch caſe muſt be conſidered as a monſter in human ſhape, as an enemy to humanity.

Sch.—We may here advert to truces and armiſtices neceſſary for acts of humanity; as, burying the dead, concerting meaſures for reconciliation and peace, &c.

Nations form treaties by mandataries, ſtrictly and ſpecifically qualified for pledging the faith of the ſovereign.

He who claims the right of a mandatary muſt ſhew ſpecific powers from the national government.

The ſovereign is bound to all that is lawfully ſtipulated by his mandatary.

Officers of government, particularly thoſe of the army and navy, are veſted with powers which involve the right of mandatary truſts: for inſtance, a general treating

treating for ſupplies, officers entruſted with the command of fortifications, &c. Their engagements are public, becauſe, without ſuch a power they could not ſerve their country.

Treaties ceaſe in a manner ſimilar to that in which pacts terminate. *Vide* the latter part of *chap.* viii. *part* 2, of this treatiſe.

CHAPTER XIII.

Of the territory and juriſdiction of nations.

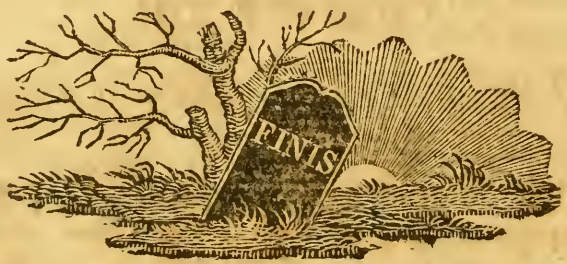
NATIONS inhabit a part of the globe, they conſequently poſſeſs a territory.

Nations may acquire territory by occupancy, by conqueſt upon the principle of forfeiture and law, or by treaties.

The territory of a nation may be enlarged by acceſſion, according to the principles formerly laid down with reſpect to the various modes of acquiſition of property, or right in things.

As far as a nation's territory extends, ſo far extends its juriſdiction; for, not to have juriſdiction in its own territory would amount to a dependency inconſiſtent with the right of equality.

Upon the ſame principles, national juriſdiction extends to thoſe things in which a nation has the right of commonry; as, the open ſea, &c.

The

The cuſtomary law of nations allows a maritime ſtate juriſdiction to the diſtance of three leagues from ſhore, and over bays, rivers and harbours, where a free paſſage can be hindered by the batteries erected on their reſpective ſhores, or the excluſive right maintained by means of neighbouring fortifications.